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Senate

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

** * * love is the fulfilling of the law.—Romans 13:10.*

Father in Heaven, when pressure becomes heavy between those who hold opposing views, we are less inclined to concentrate on issues and more inclined to think personally. Our reason tells us we are united in one purpose for the common welfare, but our emotions incline us to see those who oppose us as enemies. We thank Thee for Senate tradition which respects political adversaries and for Senate language which never fails to recognize each other as distinguished.

Grant, O God, that this tradition will always be taken seriously and this language will always be more than polite rhetoric. Keep us mindful that we debate a point not because we are stubborn and inflexible, but because we are strongly convinced that our position is the best for that objective to which we all are dedicated.

Help us to keep our cool in the realization that *"* * * love is the fulfilling of the law,"* that the two great commandments are comprehended in love for God and neighbor. Never allow us to feel that love is unbecoming the dignity and decorum of this powerful body. Gracious, loving Lord, help us to conduct all our business on this floor, as well as in our offices and homes, in love.

In the name of Him who is incarnate in love. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized. Mr. LOTT. Thank you, Mr. President.

RESERVATION OF LEADER TIME

Mr. LOTT. Mr. President, time for the two leaders has been reserved.

SCHEDULE

Mr. LOTT. Mr. President, there will be a period for the transaction of morning business not to extend beyond 10 a.m. with Senators permitted to speak for not more than 5 minutes each with the following Senators to speak for up to the designated times of 15 minutes: Senator DOMENICI and Senator BREAU.

The Senate will then resume consideration of House Joint Resolution 1 at 10 a.m., the balanced budget amendment to the Constitution.

There will be a recess between the hours of 12:30 p.m. and 2:15 p.m. for the weekly policy luncheons to meet.

Mr. President, I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator from Mississippi is recognized.

FARM AND NUTRITION PROGRAMS

Mr. COCHRAN. Mr. President, I ask unanimous consent to insert in the RECORD a copy of an article written by Mr. Neely Mallory in the Commercial Appeal of Memphis, TN, on Sunday, January 29, dealing with the importance of agriculture and nutrition programs.

It is a cautionary signal and call to the Congress to recognize the importance of these programs as we work through the efforts for reform, reduction in spending, balancing the budget, and the other important challenges that we are considering now in the Congress.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Commercial Appeal, Jan. 29, 1995]

A PROUD HARVEST

(By Neely Mallory)

The new year is barely out of the bag but the debate concerning the new farm bill already has begun in earnest. Every five years, Congress must decide whether to reauthorize a set of farm and nutrition programs that have been in place for about 60 years.

An editorial in this newspaper Jan. 2 lent its voice to a group that wants farm programs to be either abolished or significantly changed. In so doing, this newspaper has done a disservice to the thousands of Mid-South farmers who read it, the needy who benefit from food assistance programs and the American public.

As the editorial stated, there are far fewer farmers today than there were 60 years ago—but there are many more mouths to feed and bodies to clothe. The importance of food and fiber to every person on this planet has not declined one iota over these many years. Research, huge capital investments, advancing technology and successful farm programs have made this incredible jump in efficiency possible—without for one moment jeopardizing our nation's supply of reasonably priced food and fiber.

Agriculture and related businesses contribute more than \$40 billion annually to the Mid-South economy alone. Farming may not be the nation's principal occupation, but it is, nevertheless, an important one. About one job out of six in the United States is somehow farm or food related. Certainly, the jobs and economic activity created by farmers drive this region's economy.

Farm programs are not the relics critics would lead the public to believe. Farm programs have changed, evolved with every farm bill and with changing economic conditions. In the 1930s, those programs were designed to keep farmers in place and to prevent shortages of food and fiber for a hungry nation. In the 1990s, these programs are a crucially important component of industrial policy that enables U.S. agriculture to remain viable in a world market where its

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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comparative advantage is taken away by foreign subsidies.

Today's commercial farm is a high-tech, capital-intensive enterprise. The implications of this evolution in farm organization and management are not understood nearly as well as they should be. The relatively large gross sales of farming operations lead many people to believe that farmers have no need for government programs. The truth of the matter is that the narrow margins on sales of agriculture commodities are simply not adequate to compensate for the tremendous risk associated with today's capital-intensive farming. Neither a prudent farmer nor his banker would consider making the kind of investment currently necessary for commercial agriculture production in the absence of either a farm program that provides the producer with a safety net or much higher market prices that are commensurate with the investment and risk involved.

There is a rather badly misplaced belief that the new General Agreement on Tariffs and Trade will do away with agriculture subsidies around the world, after which U.S. agriculture should be able to take advantage of its competitive edge. If, in fact, GATT did away with subsidies, U.S. agriculture would be generally well positioned, with its vast agriculture land resources, favorable climate, unequalled technology and excellent processing, handling and transportation infrastructure.

The United States offered during the early stages of GATT negotiations to end agriculture subsidization, but no other country would hear of it. They cannot compete with us without government help. The final agreement requires very minimal changes in the subsidy programs of other nations. So U.S. agriculture will continue to be confronted with a system of foreign subsidies that undermines our comparative advantage in agriculture production and marketing.

It is no accident or quirk of fate that every American enjoys the lowest-cost and best available supply of food and fiber in the world. This prized result came about because of American ingenuity and successful farm programs that have enabled U.S. farmers to compete worldwide and produce an abundant supply of food and fiber for domestic consumption. And it has happened in spite of foreign subsidies, tremendous natural disasters and the huge financial risk associated with farming.

The agriculture reforms suggested in this newspaper's editorial already have been set in motion. A massive reorganization and downsizing of the U.S. Department of Agriculture and the total revision of the federal crop insurance program are but two examples. Farm program spending (which makes up less than 1 percent of the entire federal budget) has been cut by two-thirds since 1986. This is not "trimming," as the editorial suggests; this is slicing and dicing. If the rest of this nation's federal spending had been reduced by half as much as agriculture, we would be running a federal surplus.

A review of farm programs is certainly in order during 1995 as Congress considers new farm legislation. We would be the first to admit that farm programs are not perfect, and that some farmers have taken improper advantage of them. But on balance, it is safe to say that farmers are no more or less likely to cheat than any other person. Responsible lawmakers should not ignore the plain success of U.S. farm and nutrition programs. Abolition or weakening of programs whose success can be measured every day does not qualify as needed reform. It would be imperiling a 21-million-job industry.

I believe the new secretary of Agriculture and those in Congress responsible for writing the laws will know the difference between so-

called reform and preserving an industry-government partnership that returns enormous benefits to the American public.

Mr. COCHRAN. Mr. President, I thank my good friend for permitting me to make that unanimous-consent request.

Mr. DOMENICI. The Senator is welcome.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico [Mr. DOMENICI] is recognized for up to 15 minutes.

Mr. DOMENICI. Will the Chair advise me when I have used 10 minutes?

The PRESIDING OFFICER. The Chair will so advise.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 298 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PROTECTION OF MEDICARE

Mr. KENNEDY. Mr. President, yesterday the Speaker of the House addressed the American Hospital Association. His comments should be reviewed by every Member of the Senate and by the American people as well, because they are an unmistakable preview of what we can expect if the constitutional amendment before us is enacted and of what the Republican Contract on American really means.

The Speaker said that Medicare would be "rethought from the ground up." He said that he would "make every decision within the context of getting to a balanced budget."

I am not surprised by the Speaker's words, because the fact is that you can't balance the budget, protect defense spending, and provide billions in tax cuts for the rich without savage cuts in the Medicare Program. If Social Security is kept off limits, the Treasury Department estimates that Medicare would have to be cut by \$77 billion by 2002—an almost unthinkable 31 percent of projected program outlays. If Social Security is also cut, the reductions would still be 21 percent of program costs—nearly \$2,000 less Medicare for every senior citizen.

Speaker GINGRICH and the other authors of the Republican contract don't seem to know or care how dependent senior citizens are on Medicare. Even without any Medicare cuts, senior citizens spent an average of \$2,800 out of their own pockets for health care last year. This is four times what nonelderly Americans spent. Just 7 years ago, in 1987, senior citizens had to spend 15 percent of their income for medical care—and that was too much. Today, that proportion has soared to 23 percent—almost \$1 in every \$4 of limited incomes that are already stretched to pay for food, housing, heat, clothing, and other essential expenses of daily living. Senior citizens should be paying less for medical care, not more.

A word we are hearing more and more from our friends on the other side of the aisle is restructuring the Medicare Program. All of us are interested

in improvements in Medicare, but restructuring is a barely disguised euphemism for forcing seniors into managed care and cutting benefits. Senior citizens should have the opportunity to join managed care plans—as many do today. They should be entitled to share in any savings from managed care in the form of better benefits and lower premiums—as many do today. But we should vigorously oppose any scheme to balance the budget by cutting Medicare and forcing senior citizens into managed care programs that deny them the freedom to go to the doctor of their choice.

When Speaker GINGRICH and his allies talk about a balanced budget, they don't seem to be very concerned about the budgets of American families—and particularly the limited budgets of our senior citizens. When they talk about freedom from big Government, they don't seem to be very concerned about the freedom of senior citizens to go to the doctor of their choice. But I say those are the budgets and the freedoms that we ought to be protecting, not attacking.

The distinction between Medicare and Social Security is a false one, because Medicare is a part of Social Security. Social Security and Medicare are the twin pillars of retirement security for millions of senior citizens. Like Social Security, Medicare is a sacred compact between the Government and the people. It says, "Work hard all your life, pay your dues, and we will guarantee you security in your old age." We have an obligation to protect that compact, not only for today's senior citizens but for their children and their grandchildren, for all of us, if we are fortunate, will some day be old.

When Republicans in other years tried to break the promise of Social Security, senior citizens and their families all over this country told them that the answer was "no." And the Congress responded. Today, it is time to say to NEWT GINGRICH and his friends that, when it comes to breaking the promise of Medicare, the answer is just as resounding and just as unequivocal. And once again, the answer is "no."

The PRESIDING OFFICER. Under the previous order, the Senator from Louisiana [Mr. BREAU] is recognized to speak for up to 15 minutes.

WELFARE REFORM SUMMIT

Mr. BREAU. I thank the Chair. Mr. President, I would like to take this time to comment on the event that occurred this weekend on Saturday and congratulate the President of the United States for calling, for the first time, a bipartisan summit on the issue of welfare reform.

The President of the United States, President Clinton, spent almost 5 hours sitting in an all-day meeting at the Blair House, and in that meeting were Republican Governors, Democratic

Governors, Republican Members of the House, Democratic Members of the House, Democratic Members of the Senate, as well as Republican Members of the Senate. It was truly a bipartisan effort to discuss, I think, one of the most pressing problems that is facing this Congress today; that is, how do we fundamentally reform a system that I think everybody agrees is fundamentally flawed.

I think everyone in that room agreed that welfare as we know it today does not serve well the people who are on it nor does it serve very well the people who are paying for it, the taxpayers of the United States.

I think that we found in that meeting that there was a great deal of common agreement about some of the things that we should embark upon to try to fundamentally reform welfare. I think the Governors said essentially, "We would like to have more responsibility. Let us be innovative. Let us try to suggest things that work in a particular State," like my State of Louisiana that may not work in Vermont or in Mississippi or in California or any other State in the country. "Let us be innovative. Let us come up with solutions to welfare that fit the people in our respective States."

I think there is a common sense of agreement around that particular proposition.

There was also, I think, common agreement that there should be time limits; that people should not be able to be on public assistance forever if, in fact, they are able to perform work in the private sector or even in the public sector.

But I think, Mr. President and my colleagues, that something has happened, particularly since the November election. I think we have lost the proper focus of what welfare reform should concentrate on.

We have heard wonderful speeches about illegitimacy and the problem that it is, and it is. We have heard speeches about crime related to welfare. We have heard speeches about the breakup of the family which is a result of welfare programs. We have heard speeches about teen pregnancy and what we should do to try to eliminate it in the problem areas in which we see it occurring.

But I think the fundamental focus of welfare reform should be work. The fundamental focus should be how do we get a person who is a welfare recipient into a job, because I believe that the best social program that we could ever write is a good job.

You could talk about how to solve the problems of illegitimacy and crime and breakup of the family and all of these other very important issues, but the fundamental focus, I think, has to be on how do we refocus our attention on work and how do we get that person from dependency into the work force.

Now, the President's first proposal in this area was a good start. He said, "Look, there should be a time limit on welfare. It should be no more than 2

years. And then we should increase the opportunities for education and training." But he did not provide the missing link, which is: How do we, after we reach that point, get the person from welfare into the work force?

One of the first Republican proposals really just suggested a time limit—2 years, and that is it—but it did not address the fundamental problem of getting the person on welfare after that 2 years into the work force.

The latest Republican proposal seems to say, "Let's have block grants and give it to the States."

I addressed the Governors Conference this weekend, both the Democratic Governors and the National Governors Conference. I suggested to them to be careful. Do not let Congress put all of the welfare problems in a box and send the box to the States and say, "Here, it's yours." And then, when the Governors and the legislators on the State level open up that box, they see a lot of problems, but they do not see any solutions and they do not see any money to help them solve the problems. I suggest that is not a solution. That is passing the buck through a block grant to the States.

What I think we have to do is recognize that we on the Federal level who raise taxes to pay for these programs have a fundamental responsibility to see to it that these tax dollars are used in a way that truly improves welfare as we know it, that provides real answers and suggestions on what should be done. Yes, of course, maximize the flexibility to the States. I support that very strongly. But also work with the States. Do not walk away from our responsibility as Federal legislators, who have a responsibility to the Federal tax dollar to see that it is used wisely and not wasted, who have a real responsibility to come up with some ideas and suggestions as to what needs to be done.

Let me suggest one approach that has been developed by myself, along with others, including the Progressive Policy Institute of the Democratic Leadership Council, which spent a great deal of time working on this effort, together with Republicans who have commented on it. The Hudson Institute, essentially a Republican think tank, is one, I believe, that likes this idea.

I have discussed this with my colleague from Colorado, Senator HANK BROWN, who I believe will hopefully be joining with me as a cosponsor of this effort.

Here it is: I suggest that there is a missing part of the puzzle, there is a missing link, if you will, between the welfare recipient and the job. How do we get this person into this position, which I happen to think is the best social program that we could ever devise. I suggest that we consider taking existing welfare subsidies and use them to create job placement vouchers.

When a welfare recipient comes into his State welfare office seeking assistance, he enters into a contract ar-

rangement with the State welfare office and receives a voucher that is good for payment. He gets a list of organizations, both public and private, that are in the job placement business. That welfare recipient enters into a contract arrangement with one of these corporations to help them find a job.

Some of these organizations will interview this welfare recipient and say, "They are ready to go into the workplace right now. They have the training. They are just down on their luck. We can find this person a job tomorrow." And they put that person in that job the next day.

Others will look at a welfare recipient and say,

No, this person needs more training or education or on-the-job training. We know just the job that fits this person's ability. We are going to put them in it because that job has on-the-job training, on-the-job skill training and education that will fit this particular welfare recipient's needs. We can put them in this job next week.

Others will look at the welfare recipient and say,

No, this person really needs to brush up on reading and writing and arithmetic and basic English skills. They are going to have to have 6 weeks or 6 months of training, but then I know exactly where I can place that person after that particular period of time.

Now, the essential feature of this is that we are talking about privatizing the job placement portion of finding a welfare recipient a job. There are a number of institutions that are doing this right now.

Let me refer you to America Works, which has programs in New Jersey and New York. Let me talk about Cleveland Works, which has a similar program in the city of Cleveland. The Goodwill Industries work program in the State of Florida and also in the State of Louisiana is this type of program.

Here is the good feature about this particular suggestion. That private sector corporation, when they enter into that contract with the welfare recipient and receive a voucher to find them a job, only is going to get paid when that welfare recipient gets the job, No. 1, and stays in that job, No. 2, for a certain period of time. Somewhere between 7 months to 1 year has been suggested.

Let me tell you what that does to both parties. It creates a tremendous incentive for that job placement service to find that welfare recipient a job that is a good job and one that they stay in, because they know they do not get paid unless they put that person in a job situation that meets their skills and allows them to stay in it for a year or more.

Many of our welfare recipients will take a job, they will stay there 2 days or 2 weeks, and they quit. They are back on welfare, because they have not been put in the right circumstances that meets their ability to perform.

But this job placement voucher system, really, I think, provides the missing link or the missing part of the puzzle between a person who is on welfare and the job they need to be put into.

If you tell a company that they are only going to get paid if they find that welfare recipient a job that they stay in for a year, then one important thing happens. They pay a lot of attention to getting that person into the right job, because they know if they put them in the wrong job and that only lasts for 1 week, they are not going to get paid. So they make sure that the person has the proper skills and training to fit into a particular job that will allow them to stay in that job for a year or more.

I would suggest, Mr. President, that in places where this type of program has been tried, a number of good things have happened. No. 1, we have saved the State a lot of money, because if a person gets into a job position, he is earning a salary, paying taxes and is no longer on welfare. The State who has contracted with these private placement centers are paying the private placement center a lot less than they are paying the welfare recipient when he or she is on welfare.

Therefore, the concept of privatizing the missing link between the welfare recipient and the job that he or she needs is provided by this concept that we are suggesting today.

Mr. President, I think that welfare should not and cannot be a partisan issue. If it is, we will never solve it. We have to reach out to our Republican colleagues, and they to us, to sit down and come up with real solutions to a very serious problem in this country.

All of these other problems that I talked about—illegitimacy and teen pregnancy and breakup of the family, the increase in the crime rate—I think if we resolve the welfare issue in this country we will have created the best social program that we could ever create: That is, a good job. And a good job brings about responsibility and creates opportunities and helps solve the other tangential problems which are very, very serious indeed.

I am suggesting that the missing part of the puzzle can be replaced with a job placement voucher. We will be introducing such legislation that still allows the State maximum discretion that they need to tailor the needs of their respective State. I think if we move in this direction, we will have taken a giant step toward doing what the American people would like Members to do.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I see the distinguished manager of the bill rising. What I was going to do, I will tell the Chair, I was going to speak on the balanced budget, but I see the distinguished Senator from Minnesota. I was going to speak a few minutes and yield to him, to accommodate a scheduling problem I have. I do not want to inter-

fere with the prerogatives of the chairman. I have to be at another place in about 6 or 7 minutes.

Mr. HATCH. Mr. President, are we on the amendment?

The PRESIDING OFFICER. I have not called for House Joint Resolution 1 yet. The manager can do that at this time. The hour has arrived.

Mr. HATCH. I move that we move to it.

Mr. LEAHY addressed the Chair.

Mr. HATCH. Mr. President, would the Senator yield for a short statement without losing his right to the floor.

Mr. LEAHY. I would yield.

Mr. HATCH. I was hoping we could go back and forth, and then go to the distinguished Senator from Arizona. I hope we will have comity here, can speak and then whoever is next. If we can go back and forth, I think it would be a good thing.

Mr. LEAHY. Then I ask, Mr. President, unanimous consent that when I am finished, I be able to yield to the Senator from Arizona and then be able to yield to the Senator from Minnesota.

Mr. REID. Could someone restate this unanimous-consent request?

The PRESIDING OFFICER. The unanimous-consent request was that after the Senator from Vermont is finished the Senator from Arizona would be recognized and then the Senator from Minnesota.

Mr. HATCH. We may be able to solve this problem. The distinguished Senator from Arizona has 3 minutes unrelated. He wanted to do it in morning business. We have kind of jumped the gun.

Mr. LEAHY. Mr. President, I was trying to accommodate the distinguished manager and I thought this might do it. I think we are going to do it quickly. If we went on this we would probably take less time than asking for the unanimous consent.

Mr. REID. Mr. President, it is my understanding that the Senator from Arizona wants to speak 3 or 4 minutes in morning business, is that right, and then we would go to the constitutional amendment?

The PRESIDING OFFICER. That would be the regular order of the unanimous-consent request.

Mr. REID. I just want to understand what is going on.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, an objection to 4 minutes of morning business, and then going to the bill, is that the question?

The PRESIDING OFFICER. That is the request.

Without objection, it is so ordered.

Mr. KYL addressed the Chair.

The Senator from Arizona is recognized for 4 minutes.

Mr. KYL. Mr. President, I thank the Chair and the Senator from Vermont for accommodating my request.

(The remarks of Mr. KYL pertaining to the introduction of legislation are located in today's RECORD under

"Statements on Introduced Bills and Joint Resolutions.")

TRIBUTE TO KEN L. LOTT, JR.

Mr. HEFLIN. Mr. President. I want to pay tribute to one of my longtime friends, Ken L. Lott, Jr., who passed away on January 16.

A native of Selma, and longtime resident of Mobile, Ken was known to many as a leader and a friend.

Ken received a bachelor's degree in commerce from Auburn University, where he was an Army ROTC cadet.

The leadership skills he learned while a cadet helped him rise to the position of a field artillery captain in the 29th Infantry Division. His service to his country led to him receiving the Bronze Star and Purple Heart.

After Ken's enlistment in the Army ended, he began a professional career in the banking industry.

His professional affiliations included memberships with Southland Bancorporation and the International Division of First Alabama Bancshares, Inc. He was also the former chairman of Merchants National Bank.

Although Ken was very involved in his professional career, he still found time to devote to his community. He was cofounder of the Community Foundation in 1975 and served as its first president.

Additionally, his community involvement can be seen through the directorships and affiliations he once had. These included the Mobile Kiwanis Club, the Country Club, Goodwill Industries, and the chamber of commerce.

His community and State showed great appreciation to Ken by inducting him into the Alabama Senior Citizens Hall of Fame in 1991.

The Mobile community is highly grateful for what Ken gave it over the years. He will be greatly missed by those fortunate to have known him. My deepest condolences are extended to his family and loved ones.

TRIBUTE TO MUSICIAN VERNON RAINES

Mr. HEFLIN. Mr. President, conductor Vernon Raines is one of those rare individuals who has been truly blessed with a divine talent for music, and who has worked effortlessly to spread musical enlightenment to the citizens of south Alabama. It is as if the music has always been in his heart, as if it were his destiny.

At the age of 6, Vernon had already written his first violin composition, and had begun to play the piano by ear. By the time he was 18, he had become the musical director of the Mobile Chamber Orchestra and had begun a career that included over 28 years as conductor and musical director of the Meridian Symphony Orchestra. He also

served for 3 years as the conductor of the University of Southern Mississippi symphony, opera, and ballet; and was the associate professor of music and the chairman of the music department at Livingston University, in Livingston, Alabama for nearly 8 years.

In addition, Mr. Raines was an organizer of the Mobile Chamber Orchestra, was a key facilitator of the Mobile Symphonic Society, and served as the guest conductor of the Kwangju Philharmonic of Korea in 1987. He has also performed many times on public radio and television, and has made five guest appearances at the Mobile Opera Guild Workshop.

Mr. Raines graduated from Murphy High School in Mobile, and received his bachelor of music degree from the University of Alabama. He then went on to receive his master of music degree from Florida State University, studied at the American Symphony Orchestra League's Eastern Institute of Orchestral Studies, and studied privately under such noted conductors as Leo Mueller and Ernst von Dohnanyi.

It is my sincere pleasure and honor to commend and congratulate Mr. Vernon Raines on his outstanding career as a musician and conductor. He is truly a guiding force in the Greater Gulf Coast musical scene, and is an inspiration to the young musicians of Alabama. May he continue to enlighten the hearts of Alabamians with the beautiful music of our past.

TRIBUTE TO DR. JOHN M. LONG

Mr. HEFLIN. Mr. President, I rise today to pay tribute to the accomplishments of musician Dr. John M. Long, who recently was inducted into the National Band Association's Hall of Fame. When looking back at John's accomplishments, one can see why he has had such an impact on the music industry.

John's phenomenal career began while directing the Robert E. Lee High School Band in Montgomery, AL. This band set several records and became the envy of many others.

John later went on to Troy State University to even greater achievements. In the 29 years he directed the Troy State band, it made numerous recordings; appeared at four U.S. Presidential inaugurations, and played for the President twice. His accomplishments have obviously made his co-workers and students think highly of him. In fact, they named the band room at Troy State in his honor.

While directing his various bands, he has received numerous honors. In 1977, he was the first active director to be elected to the Alabama Bandmasters Hall of Fame. Later on in 1984, he was the first person to receive the Alabama Music Educator of the Year award. This is a great accomplishment because no one has been the recipient of this award for 40 years. There is no question in my mind that School Musician magazine made the right choice in

choosing him as one of the 10 outstanding band directors in the United States.

Additionally, the hard work he has put forth for the love of his job and music can be seen through the various music-related organizations he has associated himself with. They are the American Bandmaster's Association; the College Directors Association; the National Band Association.

Dr. Long's influence on students, musicians, and the public truly make him a legend in the music industry. His accomplishments in the field have opened up a whole new world for many people, young and old alike. It is my pleasure to congratulate Dr. Long on all of his achievements and wish him much happiness for the future.

TRIBUTE TO LT. GEN. ROBERT B. JOHNSTON, U.S. MARINE CORPS, ON RECEIVING THE MARINE CORPS RESERVE OFFICERS ASSOCIATION "NON SIBI; SED PATRIAE" AWARD

Mr. NUNN. Mr. President, on Saturday, February 4, at Camp Lejeune, NC the Marine Corps Reserve Officers Association will bestow upon Lt. Gen. Robert B. Johnston its highest award. The award is "Non sibi, sed patriae, which is Latin for "Not for self, but for country."

Lieutenant General Johnston, currently commander of U.S. Marine Corps Forces, Atlantic, headquartered at the base the marines call "The Home of Expeditionary Forces in Readiness" richly deserves this award. Nothing better characterizes this man than his selfless service to his country. Commissioned a second lieutenant in 1961, he ended up 30 years later as Chief of Staff of the U.S. Central Command during Operation Desert Shield and Operation Desert Storm.

Along the way, General Johnston completed two tours of duty in Vietnam, where he was decorated for valor in combat. He then went on to perform a host of other assignments with great distinction.

Mr. President, it is most fitting that Robert Johnston was in the eye of the American military hurricane that swept the Iraqi Army from Kuwait. General Johnston's association with Desert Storm was no mere coincidence. He was born in Edinburgh, Scotland, and we know the Scots are a fighting people. This is clearly true when they become U.S. citizens and marines. Moreover, General Johnston has more than a few items in common with Scotland's Robert Bruce, later King Robert the First, who gained Scotland's independence from the English in 1314 by handing them a defeat in battle that Sir Charles Oman, the great historian of the Middle Ages, called "the most lamentable defeat which an English army ever suffered." In the Battle of Bannockburn, which was as cleverly planned as Desert Storm, Robert Bruce, lured an English army half

again the size of his own into a well-disguised trap, and managed to destroy it, inflicting on it four times the number of casualties as his own army suffered.

Robert Bruce devoted his life to creating a country; Robert Johnston has devoted his to defending one. Neither Robert is known for self-promotion or loquaciousness, which may explain why both names are associated with country, not self.

Mr. President, I commend the Marine Corps Reserve Officers Association for selecting Lieutenant General Johnston to receive this award, and I add my congratulations and thanks to Lieutenant General Johnston for his outstanding service to our Nation.

TRIBUTE TO KENTUCKY FIRST LADY MILDRED WATKINS CHANDLER

Mr. McCONNELL. Mr. President, I rise today to honor the memory of former Kentucky First Lady Mildred Watkins "Mama" Chandler, who passed away on January 23 at her home in Versailles.

Over the course of her 95 years, Mrs. Chandler's strength of spirit and keen intellect were clearly evident in every facet of her life. For Kentuckians, her legacy begin in 1925 when she wed Mr. Albert B. Chandler and soon became his most accomplished campaigner and political supporter. The grace of Mrs. Chandler's musical talents and attentive demeanor provided invaluable support to her husband Albert's distinguished service as Kentucky's Governor, U.S. Senator, and commissioner of major league baseball.

Politics did not embody her whole life, however. Mrs. Chandler developed strong career interests of her own. She taught piano and voice prior to her marriage. During her husband's term in the U.S. Senate, she worked as a writer for 20th Century Fox in Hollywood. At home in Kentucky, her award-winning weekly column for the Woodford Sun was enjoyed by many. Above all, she most cherished her time as mother and mentor to her children and grandchildren.

Mr. President, I ask that my colleagues join me in sending this Chamber's sincere condolences to the family of Mrs. Mildred Watkins "Mama" Chandler. Kentucky will remember Mrs. Chandler as one of our most beloved first ladies, and I am confident that her breadth of accomplishment and strength of character will remain a standard of excellence for generations to come.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let us have that little pop quiz one more time: How many million dollars are in a trillion dollars?

When you arrive at an answer, remember that it was Congress that ran up a debt exceeding \$4.8 trillion.

To be exact, as of the close of business yesterday, Monday, January 30, the Federal debt, down to the penny, at \$4,803,795,968,326.50—meaning that every man, woman, and child in American now owes \$18,235.29 computed on a per capita basis.

Mr. President, to respond once more to the pop quiz question—how many million in a trillion: There are a million million in a trillion, and you can thank the U.S. Congress for the existing Federal debt of \$4.8 trillion.

OPPOSE EFFORTS TO ROLL BACK MOTOR-VOTER LAW

Mr. WELLSTONE. Mr. President, the National Voter Registration Act of 1993, often called the motor-voter bill, was one of the most important pieces of bipartisan legislation approved by the 103d Congress. Recently, several Senators have suggested they intend to try to delay final implementation of motor-voter, or to repeal it outright. Today a hearing was to be held on these issues in the Rules Committee. That hearing has now been postponed indefinitely. I hope as an indication of waning enthusiasm for this proposal. We must resist any efforts to weaken or to delay final implementation of this landmark measure, which is providing access for so many Americans to one of their most fundamental rights: the right to vote.

Most States have moved forward quickly, responsibly, and effectively to implement the motor-voter bill at very low cost, with only a few States resisting. States which have recently implemented the motor-voter provisions have seen tremendous increases in the number of people registering to vote. For example, since the first of the year Florida has been averaging over 3,000 new voter registrations per day from people getting driver's licenses. Approximately 3,700 voters were registered in Washington State in the first week of motor-voter operation through the combined use of motor-voter procedures, registration by mail, and agency-based registration. In Georgia, over 18,000 people have been registered since the new procedures went into effect on January 1, 1995. In Kentucky, in the first 10 days of implementation of the act, over 10,000 new voters were registered, and over 15,000 changes of address for voters were completed through the motor-voter procedures. Since Minnesota implemented its own motor-voter process in 1987, our Secretary of State estimates that we have registered over 700,000 voters using those procedures. We must not reverse this extraordinary progress, which is allowing many more people to participate in our political system.

In order to protect the fundamental right to vote of all U.S. citizens regardless of their State of residence, the U.S. Justice Department has filed suit against three States—California, Illi-

nois, and Pennsylvania—which have so far refused to implement the motor-voter procedures. As Attorney General Reno observed in the complaints against these three States, when Congress enacted the motor-voter bill we were exercising our constitutional right to regulate Federal elections under article I, section 4. States cannot simply ignore the direct statutory directives of Congress as the Attorney General said just after the law suits were filed:

Congress has the authority to regulate Federal elections, and it used that authority when it passed the law. We now must use the authority that Congress gave us to enforce it.

The motor-voter law enacted last year was designed to protect potential voters in all States, and not just in States where elected officials choose to obey properly enacted Federal laws. It is in our national interest to ensure access to the voting booth for all, whether you live in Minnesota, California, or Alaska.

In light of the importance of the Motor-Voter Act, and the support it is receiving from around the country, I ask unanimous consent that the following editorial appearing in the Washington Post on January 25, 1995 be reprinted in the CONGRESSIONAL RECORD, along with the full text of my statement.

The 1993 National Voter Registration Act was passed with bipartisan support because many of our colleagues understood how important the right to vote is in our society. The motor-voter law is part of a long line of landmark protections for the right to vote, starting with the adoption of the 15th amendment to the Constitution, through the enactment of the 1965 Voting Rights Act, and culminating with its passage. We must not return to the days when access to the voting booths in our country was limited by serious barriers to registration. We must stand up for the fundamental right to vote. I urge my colleagues to join me in opposing any effort to undermine the motor-voter law, or to delay its full implementation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY RESIST THE 'MOTOR VOTER' LAW?

On Monday the Justice Department filed suit against California, Illinois and Pennsylvania for refusing to comply with the National Voter Registration Act, popularly known as the "motor voter law." The 1993 law requires that states allow people to register to vote when they get their driver's licenses, when they apply for social service and other government benefits, and by mail. The law was a good idea. Its purpose was to streamline the U.S. voter registration system, which is unusually cumbersome by the standards of most other democracies.

What are the arguments being made against the law? A group of Republican governors that includes California's Pete Wilson, who has already sued to have the law overturned, objects on four principal counts: (1) that voter registration is a state responsibility and the federal government has no right to impose prescriptions as specific as

those contained in the new law; (2) that the law is another unfunded mandate requiring states to spend their own money to achieve a purpose dictated by Congress; (3) that it is also a ploy by Democrats to strengthen the party's electoral chances, since many of those whom easier registration might add to the voter pool are groups inclined to vote against the GOP; and (4) that the law could facilitate voter fraud.

The issue of the power of the federal government on this particular matter will now be settled by the courts, but Attorney General Janet Reno made a plausible point when she argued that "Congress has the authority to regulate federal elections, and it used that authority when it passed this law." As for the mandates argument, it's true that the Congressional Budget Office estimated the new law would have a cost, though less than an average of \$1 million in each state annually. This has not bothered most states. On the third point (that the GOP would be hurt and the Democrats helped), the evidence is not so clear. Back in 1989, for example, Newt Gingrich urged his party to support eased voter registration "not only because it's good policy but also because it's good politics." Since young people are disproportionately unregistered and since many in their ranks lean Republican, he said, the party might actually gain from an expanded electorate. Mr. Gingrich is not a fan of this law, but that was a good point. As for fraud, registration at motor vehicle offices and by mail already works fine in many parts of the country, including in the District.

Both political parties should want to take their chances with the broadest possible electorate. The governors ought to reconsider.

HOMICIDES BY GUNSHOT IN NEW YORK CITY

Mr. MOYNIHAN. Mr. President, I rise to announce to the Senate that during the past week, 14 people were killed with firearms in New York City, bringing this year's total to 58.

A recent national study released by the Centers for Disease Control and Prevention indicated that homicide is the second leading cause of death among teenagers aged 15 to 19. If current nationwide trends continue, it is estimated that annual deaths from gunshot wounds will surpass annual deaths from automobile accidents by 2003. In New York State, as in the District of Columbia and five other States, this has already occurred. In 1992, there were 2,345 gunshot-related deaths in New York State, compared with 1,959 motor vehicle-related deaths.

By the middle of the century, we recognized that traffic accidents constituted perhaps the greatest of the Nation's public health problems. So we did something about it. We passed the Motor Vehicle Safety Act in 1966 and increased the use of seatbelts, padded dashboards, and, more recently, airbags. As a result, traffic death and injury was reduced by 30 percent, even as the number of miles driven by Americans increased dramatically. Estimates suggest that we prevented as many as 250,000 deaths.

We should apply our experience in reducing traffic fatalities to reducing the

death rate by gunshot. There are certainly ways we could achieve this: by establishing stricter requirements for gun ownership, by restricting access to the guns used most often to commit crimes, by making guns themselves safer, and by teaching people to use them safely. However, I propose that we can best reduce the incidence of firearm-related deaths not by restricting the supply of guns, but by restricting the supply of ammunition, particularly those rounds used disproportionately in violent crime. Even if we were able to resolve the intense conflicts surrounding the gun control debate, we would still have enough guns on the street to last us more than a century. Our current supply of ammunition, on the other hand, might well last only 3 or 4 years.

We must heed the lessons of the past. Clearly we cannot change the behavior of criminals overnight, as we could not change the behavior of drivers. But there are other ways to control the escalating death rates. I believe that ammunition control is the best way, and I hope my colleagues will agree.

FUNDING FOR PUBLIC BROADCASTING

Mr. SARBANES. Mr. President, today we find ourselves in the midst of an information services technological revolution. At no time in our history has access to information and information services been more important. In light of this, I am concerned about recent proposals to reduce drastically or to eliminate Federal support for public broadcasting, a primary source of information for millions.

As we consider the future of public broadcasting, let us not forget that cable television, which many have suggested can fill the gap, currently reaches only 60 percent of U.S. households. Forty percent of American households do not have cable television primarily because it is cost prohibitive or because cable service is simply unavailable in their communities. While cable television has given millions of Americans remarkable access to information and entertainment, it is not an adequate substitute for public broadcasting. Mr. President, currently on no other network can you find the variety of programming which public broadcasting offers.

Children's programming on public broadcasting provides parents with a guaranty of quality without violence. Programs such as "Ghostwriter," "Reading Rainbow," "Bill Nye the Science Guy," "Sesame Street," and "Where in the World is Carmen Sandiego" educate and entertain our children without bombarding them with commercials. In addition, from "Wall Street Week With Louis Rukeyser" to "MacNeil/Lehrer NewsHour," from "Austin City Limits" to "Live From Lincoln Center," millions of adult Americans turn to public broadcasting for exposure to cultural

events, news and commentary, documentaries, and instructional programming. Public broadcasting has brought our Nation unparalleled historical and political documentaries such as "Eyes on the Prize" and "The Civil War." For a little less than \$1 per American annually, we make an investment in our children and in the preservation and dissemination of our culture and our history.

I am proud that my own State of Maryland has a State public broadcasting network, Maryland Public Television [MPT], with an unequalled commitment to State historical and educational programming. Maryland Public Television produces more local documentaries than any other local station in the State. Marylanders can study for their GED or earn college credit through MPT. MPT has also been one of the leaders on the information superhighway. Through its electronic classroom, MPT has made it possible for students to see and talk to scientists at the South Pole. MPT is just one example of the many superb public broadcasting networks across the Nation which, on very limited budgets, manage to serve viewer needs while keeping up with the technological advancements currently sweeping the telecommunications industry.

We have recently heard claims that public broadcasting is elitist. I would suggest, Mr. President, that it is in fact anything but elitist. Public broadcasting is the one network available to Americans regardless of where they live or how much money they earn. There are communities in my State, both rural and urban, in which a public broadcasting station is one of perhaps two or three stations accessible without cable. In fact I grew up in one of those towns, Salisbury, MD, and my mother still resides there. Corporation for Public Broadcasting [CPB] statistics show that 48 percent of Americans who listen to National Public Radio [NPR] have household incomes of \$40,000 or less annually. Public broadcasting is often one of the tools used by rural America to attract businesses and residents. The presence of a public broadcasting radio or television station assures prospective businesses and residents that they will not be cut off from cultural events and access to news and information.

Often when we discuss the future of public broadcasting we talk only about television. We forget the importance of public radio. How will cable compensate for the loss of public radio? Nearly 90 percent of all Americans have access to a public radio signal. Public radio provides its listeners with local community-oriented programming while also linking them to the Nation and the world. Public Radio International [PRI] and National Public Radio [NPR] are the two major distribution services for public radio. PRI's mission of operation is to engage listeners with distinctive radio programs that provide information, in-

sights, and cultural experiences essential to understanding a diverse, interdependent world. PRI distributes to public radio stations across the Nation such widely popular shows as Garrison Keillor's—"A Prairie Home Companion" and the "Baltimore Symphony Orchestra," jointly produced by WJHU of Baltimore and WETA in Washington, DC. NPR is known nationwide for producing outstanding programs such as "All Things Considered" and "Morning Edition." Individual public radio stations can be affiliates of both PRI and NPR. This assures public radio stations of access to the broadest possible range of programming regardless of their location.

Many public radio stations serve rural communities which would otherwise be entirely without radio service. Over 90 percent of public radio's share of public broadcasting funds goes directly to local stations serving local communities. These radio stations respond directly to the needs and wants of their communities. Many of these communities and ethnically disparate, therefore requiring a commitment to diverse programming. Commercial radio has declared many of these areas commercially inviable. These communities are often too small and too far flung to support stations on their own. In my own State of Maryland, public radio stations such as WESM on the Eastern Shore play an important role in supporting the goals of education, literacy, volunteerism, and in working to combat youth violence. Are we now prepared to tell these communities that at a cost of 29 cents per taxpayer, the Federal Government is also declaring them unworthy of radio access to news, information, and entertainment?

Mr. President, throughout its history public broadcasting has set the standard against which we have measured the quality of commercial programming, and with the advent of the information superhighway public broadcasting is needed now more than ever. Millions of Americans will find themselves on byroads instead of the superhighway without public broadcasting. In my view, we should protect the access of all Americans to reliable educational programming and quality entertainment. I look forward to working with all of my colleagues in affirming the contributions of public broadcasting to our society and in ensuring that public broadcasting continues to enhance our lives and enlighten our minds.

TRIBUTE TO FRANK E. RODGERS

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Mayor Frank E. Rodgers, who may well have set a record that will stand forever as the longest serving mayor in the history of the United States.

Mayor Rodgers has 58 years of experience in public service. He served for 48 years as the mayor of Harrison, NJ.

That set the record for the longest successive tenure as a mayor in the history of the United States.

That would be impressive enough by itself. But even while he was serving as mayor, Frank Rodgers also found the time to hold several other public service appointments. He served as secretary to the New Jersey Racing Commission between 1963 and 1964. He served as clerk to the Board of Chosen Freeholders of Hudson County from 1964 to 1982. And he served as a member of the New Jersey Highway Authority from 1976 to 1978.

In 1978, he was elected to the New Jersey State Senate where he served until 1983. And from 1984 to 1994, Mayor Rodgers served as a commissioner of the New Jersey Turnpike Authority.

Mr. President, who could help but be in awe of this committed public servant? Who could help but wonder how he stayed so popular for so long?

The answer is actually quite simple.

Mayor Rodgers has devoted his life to the people of New Jersey. He has doggedly pursued our vital interests, although in the time he served as mayor, those interests have changed dramatically.

When Mayor Rodgers was first elected in 1946, America had just won World War II. Mayor Rodgers was swept into office on a veteran's ticket, and he focused, in his first term, on post-war concerns.

Over the years, Mayor Rodgers continued to respond to the needs of his constituents, whether they were young or old, veterans or new immigrants.

More recently, he has proved adept at tackling more contemporary issues, including transportation, crime, and economic development.

Mr. President, I believe that we can all learn a great lesson from Mayor Rodgers, a gracious statesman who faced Harrison voters 29 times without a defeat.

Over the last five decades, Mayor Rodgers has developed a close working relationship with the people of Harrison. He did so by listening to their concerns, responding to their needs, and always sticking to his word.

Those are characteristics that all of us, in the private and public sectors, could learn a lot from.

I yield the floor.

IN MEMORY OF ROSE KENNEDY

Mr. KERRY. Mr. President, I rise to honor the memory of a woman and a mother from Massachusetts. Not just any woman, not just any mother, but a most extraordinary example of both.

Rose Fitzgerald Kennedy's long life will be remembered by a grateful Nation as a legacy of parental strength and family leadership.

To those of us who remember images of her campaigning with her sons, or mourning in quiet dignity, she shall always reflect a moment in time when we believed in ourselves, in our fami-

lies, in our faith, and in our ability to survive.

She lived through incredible victories and wrenching tragedies, but through it all her resolve, her deep religious devotion, and her profound belief in family and community, gave this Nation a vision of who we could be.

To my generation she defined faith, courage, and dignity, and once said, "A mother should be a bulwark of strength." And in her courageous response to sorrow, and in her reflections on how good life can be, and on how lucky we are, she was that bulwark of strength for all of us.

During good times and bad times that touched the hearts and lives of every American, we looked to her for guidance and for a mother's perspective, and she gave us both.

She set a standard of parental leadership that will live long after those of us lucky enough to have shared God's Earth with her are gone.

I remember being invited to Hyannis, and meeting Rose Kennedy for the first time. And I remember being moved by her intensity and concern, by a warmth and graciousness that recalled a proud time when our belief in ourselves demanded that we accept what God has bestowed upon us, and that we bare the burden and share the bounty.

Rose Kennedy was an extraordinary woman and mother. Now it is time we pay tribute to her for what she sacrificed for service to the community.

Mr. President, I know I speak for every member of this institution and for the people of Massachusetts in offering my deepest and most sincere condolences to my friend and colleague, the senior Senator from Massachusetts, and the entire Kennedy family.

I say to Senator KENNEDY and to his family that we will always remember Rose Fitzgerald Kennedy, and that we are a better people for having had her among us for over a century.

Thank you, Mr. President.

Mr. President, I ask unanimous consent that the eulogy delivered by the senior Senator from Massachusetts be printed in the RECORD.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

TRIBUTE TO ROSE FITZGERALD KENNEDY

On my office wall, there is a note from Mother, reacting to a comment I once made in an interview. "Dear Teddy," she wrote in the note, "I just saw a story in which you said: 'If I was President * * *'. You should have said, 'If I were President * * *', which is correct because it is a condition contrary to fact."

Mother always thought her children should strive for the highest place. But inside the family, with love and laughter, she knew how to put each of us in our place. She was ambitious not only for our success, but for our souls. From our youth, we remember how, with effortless ease, she could bandage a cut, dry a tear, recite, from memory the "The Midnight Ride of Paul Revere," and spot a hole in a sock from a hundred yards away.

She sustained us in the saddest times—by her faith in God, which was the greatest gift she gave us—and by the strength of her character, which was a combination of the sweetest gentleness and the most tempered steel.

She was indomitable for all her days. Each summer for many years, we would gather 'round at night, and sitting at the piano, Mother would play "Sweet Rosie O'Grady," the song that became her own special ballad:

Just around the corner of the
street where I reside,
There lives the cutest little girl
that I have ever spied.
Her name is Rosie O'Grady,
and I don't mind telling you,
That she's the sweetest little Rose
the garden ever grew.
I love sweet Rosie O'Grady,
and Rosie O'Grady loves me.

When she finished, her voice would lilt, and her eyes would flash, and she would ask if we would like to hear it one more time. And we always would.

All her life, Mother also loved learning, and she was an excellent student herself. We still have her report card from Dorchester High School. In her 3 years there, she received 71 A's, 22 B's, and 1 C. I asked her about that C, which was in geometry. She said there must be some mistake. She didn't remember anything but A's.

One spring some years ago, when she was in her nineties, I took her on Good Friday to the Three Hours devotion. But the nurse warned me in advance that Mother had to eat, so we would have to leave after only an hour.

At one o'clock, I whispered: "Mother, it's time to go." She looked at me and sternly said: "Not yet, Teddy." So I asked a second time, and her answer came in a tone that was distinctly not a whisper: "Teddy, the service is not over yet."

By now, the congregation was discreetly staring at us and clearly thinking: See, he's trying to get out of Church early, but that sainted Mother of his— isn't she wonderful?— just won't let him.

Later that night, of course, Mother and I said the Rosary, as she did every night, by herself or with any of her children or grandchildren who happened to be home. In the Kennedy family, you learned the glorious Mysteries at an early age.

You learned just as early how to catch a pass, sail a boat or serve a tennis ball. All her life, Mother was interested in our games. The summer she turned 101, I went into her room and showed her my tennis racket. She said, "Are you sure that's your racket, Teddy? I've been looking all over the house for mine."

Jack once called her the glue that held the family together. We learned a special bond of loyalty and affection, which all of us first came to know in the deep and abiding love that Mother shared with Dad for 57 years.

From both of them together, we inherited a spirit that kept all their children close to each other and to them. Whatever any of us has done—whatever contribution we have made—begins and ends with Rose and Joseph Kennedy. For all of us, Dad was the spark, and Mother was the light of our lives. He was our greatest fan; she was our greatest teacher.

She was born in 1890, the year of the Battle of Wounded Knee, when Benjamin Harrison was in the White House. And she never let us forget that she had lived so much of the history that we only read about. Our dinner table was her classroom, and the subject was the whole world of human events.

One evening early in 1984, when mother was 93, she asked if we thought President Reagan would run again. One of our guests

replied, "Of course he'll run, Mrs. Kennedy. After all, he's very young. He's only 73." Mother looked at the guest for a second and then answered him with a twinkle in her voice: "You're just trying to flatter me. I know that he's the oldest President in American history." Unless it came from her, there was no blarney when Mother was around.

So what now secures for Rose Fitzgerald Kennedy the high place in history that she will have? I think it is most of all the warm place she holds in the hearts of so many people everywhere, from Boston to Dublin, from Berlin to New Delhi to Buenos Aires. Millions who never met her sensed the kind of rare and wondrous person she was, a shining example of the faith that sustained her through even the hardest sorrow. She had an inner strength that radiated from her life. She was a symbol of family in this country and around the world.

She cared for a retarded child as much as for the most powerful statesman. She truly did believe that we are all, royalty and disability alike, created in the image and likeness of God.

She was the granddaughter of immigrants who saw her father become the first Irish-Catholic Congressman from Boston, and her son and grandson succeed him. She saw three sons serve in the Senate—actually she was sure that it was her campaigning that put us there—and we all thought that as usual she was right. She saw the son who proudly carried her Fitzgerald name become the first Irish-Catholic President of the United States.

And she was just as proud to see a new generation of her family carrying on her belief in public service.

But Mother also taught us that you do not have to run for office to make a difference. She was equally proud of her daughters and the contributions they have made. Jean—the founder of Very Special Arts and now, like our father before her, the Ambassador. Pat, for the pioneering support she has given to young writers. Eunice, founder of Special Olympics and the leader of a global revolution of human rights for the retarded and disabled.

And Mother had a special place in her heart and prayers for our sister Rosemary, for her bravery and the things she taught us all.

Mother gave not only to her children, but she gave her children, fired with her own faith, to serve the Nation and the earth. To us, she was the most beautiful Rose of all the roses in the world. Her life shows us the truth and the way.

Mother knew this day was coming, but she did not dread it. She accepted and even welcomed it, not as a leaving, but as a returning. She has gone to God. She is home. And at this moment she is happily presiding at a heavenly table with both of her Joes, with Jack and Kathleen, with Bobby and David.

And as she did all our lives, whether it was when I walked back through the rain from school as a child, or when a President who was her son came back to Hyannis Port, she will be there ready to welcome the rest of us home someday. Of this I have no doubt, for as they were from the beginning, Mother's prayers will continue to be more than enough to bring us through.

Not long ago, I found a beautiful poem that symbolizes what all of us feel today. Its title is "The Rose Still Grows Beyond the Wall:"

Near a shady wall a rose once grew,
Budded and blossomed in God's free light,
Watered and fed by morning dew,
Shedding its sweetness day and night.
As it grew and blossomed fair and tall,
Slowly rising to loftier height,
It came to a crevice in the wall,

Through which there shone a beam of light.

Onward it crept with added strength,
With never a thought of fear or pride.
It followed the light through the crevice's length

And unfolded itself on the other side.
The light, the dew, the broadening view
Were found the same as they were before;
And it lost itself in beauties new,
Breathing its fragrance more and more.

Shall claim of death cause us to grieve,
And make our courage faint or fail?
Nay! Let us faith and hope receive;
The rose still grows beyond the wall,
Scattering fragrance far and wide,
Just as it did in days of yore,
Just as it did on the other side,
Just as it will for evermore.

THE BIOMATERIALS ACCESS ASSURANCE ACT

Mr. MCCAIN. Mr. President, I am pleased to be the primary cosponsor of the Biomaterials Access Assurance Act of 1995 to ensure the availability of raw materials and component parts for implantable medical devices. This bill, which we introduced as S. 2215 last year, is necessary for Americans to have continued access to a wide variety of life-saving devices, such as brain shunts, heart valves, artificial blood vessels, and pacemakers.

Currently, the manufacturers and suppliers of materials used in implantable medical devices are subject to substantial legal costs and possibly liability for selling small amounts of materials to medical device manufacturers. These sales generate relatively small profits and are often used for purposes beyond their direct control. Consequently, some of the manufacturers and suppliers of these materials are now refusing to provide them for use in medical devices.

It is absolutely essential that a continued supply of raw materials and component parts is available for the invention, development, improvement, and maintenance of medical devices. Most of these devices are made with materials and parts that are not designed or manufactured specifically for use in implantable devices. Their primary use is in non-medical products. Medical device manufacturers use only small quantities of these raw materials and component parts, and this market constitutes a small portion of the overall market for such raw materials.

While raw materials and component parts suppliers do not design, produce or test the final medical implant, they have been sued in cases alleging inadequate design and testing of, or warnings related to use of, permanently implanted medical devices. The cost of defending these suits often exceeds the profits generated by the sale of materials. This is the reason that some manufacturers and suppliers have begun to cease supplying their products for use in permanently implanted medical devices.

Unless alternative sources of supply can be found, the unavailability of raw materials and component parts will

lead to unavailability of life-saving and life-enhancing medical devices. The prospects for development of new sources of supply for the full range of threatened raw materials and component parts are remote, as other suppliers around the world are refusing to sell raw materials or component parts for use in manufacturing permanently implantable medical devices in the United States.

The legal concerns that are causing the unavailability of raw materials and component parts for medical implants are part of a larger product liability crisis in this country. Immediate action is necessary to ensure the availability of such materials and parts for medical devices so that Americans have access to the devices they need. Addressing this problem will solve one important aspect of our broken medical product liability system.

This issue initially came to my attention when I was contacted by one of my constituents, Linda Flake Ransom, about her 7-year-old daughter, Tara, who requires a silicon brain shunt. Without a shunt, due to Tara's condition called hydrocephalus, excess fluid would build up in her brain, increasing pressure, and causing permanent brain damage, blindness, paralysis, and ultimately death. With the shunt, she is a healthy, happy, and productive straight-A student with enormous promise and potential.

Tara has already undergone the brain shunt procedure five times in her brief life. However, the next time that she needs to replace her shunt, it is not certain that a new one will be available due to the unavailability of shunt materials. This situation is a sad example of a medical liability system that is out of control. It is tragic, but not surprising that manufacturers have decided not to provide materials if they are subject to tens of millions of dollars of potential liability for doing so.

It is essential that individuals such as Tara continue to have access to the medical devices they need to stay alive and healthy. Enacting the Biomaterials Access Assurance Act of 1995 would help to ensure the ongoing availability of materials necessary to make these devices. It would not, in any way, protect negligent manufacturers or suppliers of medical devices, or even manufacturers or suppliers of biomaterials that make negligent claims about their products. However, it would protect manufacturers and suppliers whose materials are being used in a manner that is beyond their control.

Mr. President, we must act quickly to pass the bill to ensure that the lives of Tara and thousands of other Americans are not jeopardized.

LBJ AND THE BALANCED BUDGET

Mr. HOLLINGS. Mr. President, I would like to include in the RECORD an article by Jack Valenti that appeared

in the Los Angeles Times on Jan. 20 on the Presidency of Lyndon B. Johnson.

Mr. Valenti enumerates many of President Johnson's accomplishments, including his fight for civil rights and voting rights for all Americans, the initiation of the Medicare and Head Start programs and the passage of the Elementary and Secondary Education Act, which helps provide Federal loans, scholarships, and grants to all American college students.

Indeed, President Johnson's accomplishments are many. And I would emphasize one more, which no President since has matched. Lyndon Johnson not only balanced the Federal budget, but gave Richard Nixon a surplus. In this era of a \$4.8 trillion debt, that is one heck of an accomplishment.

Mr. President, I urge my colleagues to read this article and ask that it be printed in its entirety in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Jan. 20, 1995]

RECALLING A MAN WHO STAYED THE COURSE
(By Jack Valenti)

On this day 30 years ago, Lyndon B. Johnson was inaugurated in his own right as the 36th President of the United States. He had been elected President the previous November in a landslide of public favor, with the largest percentage of votes in this century, matched by no other victorious President in the ensuing years. This day plus two is also the 22nd anniversary of his death.

Is it odd or is it merely the lament of one who served him as best I could that his presidency and his passing find only casual regard on this day?

He was the greatest parliamentary commander of his era. He came to the presidency with a fixed compass course about where he wanted to take the nation, and unshakable convictions about what he wanted to do to lift the quality of life. Against opposing forces in and outside his own party, in conflict with those who thought he had no right to be President, contradicting conventional wisdom and political polls, he never hesitated, never flagged, never changed course. He was a professional who knew every nook and cranny of the arena, and when he was in full throttle, he was virtually unstoppable.

He defined swiftly who he was and what he was about. He said that he was going to pass a civil-rights bill and a voting-rights bill because, as he declared, "every citizen ought to have the right to live his own life without fear, and every citizen ought to have the right to vote and when you got the vote, you have political power, and when you have political power, folks listen to you." He promptly told his longtime Southern congressional friends that though he loved them, they had best get out of his way or he would run them down. He was going to pass those civil-rights bills. And he did.

He made it clear that he was no longer going to tolerate "a little old lady being turned away from a hospital because she had no money to pay the bill. By God, that's never going to happen again." He determined to pass what he called "Harry Truman's medical-insurance bill." And he did. It was called Medicare.

He railed against the absence of education in too many of America's young. He stood on public rostrums and shouted. "We're going to make it possible for every boy and girl in America, no matter how poor, no matter

their race or religion, no matter what remote corner of the country they live in, to get all the education they can take, by federal loan, scholarship or grant." And he passed the Elementary and Secondary Education Act.

He was in a raging passion to destroy poverty in the land. He waged his own "War on Poverty," giving birth to Head Start and a legion of other programs to stir the poor, to ignite their hopes and raise their sights. Some of the programs worked. Some didn't. But he said over and over again, "If you don't risk, you never rise."

He often said that no President can lay claim to greatness unless he presides over a robust economy. And so he courted, shamelessly, the business, banking and industrial proconsuls of the nation and made them believe what he said. And the economy prospered.

On the first night of his presidency, he ruminated about the awesome task ahead. But there was on the horizon that night only a thin smudge of a line that was Vietnam. In time, like a relentless cancer curling about the soul of a nation, Vietnam infected his presidency.

If there had not been 16,000 American soldiers in Vietnam when he took office, would he have sent troops there? I don't believe he would have. But who really knows? What I do know is that he grieved, a deep-down sorrow, that he could not find "an honorable way out" other than "hauling ass out of there."

I think that grieving cut his life short. Every President will testify that when he has to send young men into battle and the casualties begin to mount, it's like drinking carbolic acid every morning.

But it was all a long time ago. To many young people not born when L.B.J. died, he is a remote, distant figure coated with the fungus of Vietnam. They view him, if at all, dispiritedly.

But to others, to paraphrase Ralph Ellison, because of Vietnam, L.B.J. will just have to settle for being the greatest American President for the undereducated young, the poor and the old, the sick and the black. But perhaps that's not too bad an epitaph on this day so far away from where he lived.

COMMENDING TOMAS JICINSKY

Mr. LIEBERMAN. Mr. President, I rise today to honor the exemplary and commendable efforts of Tomas Jicinsky to bring about democracy in the former Czechoslovakia. Mr. Jicinsky was instrumental in orchestrating and supplying democratic forces with information within the former Czechoslovakia. I salute the effort of Glenn Piasecki of Southington, CT, in recognizing Tomas Jicinsky's tireless struggle.

Mr. Jicinsky supplied democratic forces with information within the former Czechoslovakia, and organized underground meetings to begin the eventual downfall of the Communist regime. He worked with Charter 77, an organization dedicated to initiating and sustaining democratic principles throughout the world. I salute Mr. Jicinsky for his dedication to bring about democracy in the former Czechoslovakia.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that I may speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. I thank the Chair.

EMERGENCY SPENDING CONTROL ACT OF 1995

Mr. FEINGOLD. I rise today to join with my good friend, the Senator from Arizona, Senator MCCAIN, to discuss the measure we recently introduced, the Emergency Spending Control Act of 1995.

I want to just first relate how Senator MCCAIN and I came to work together on this.

After the election, of course, the results were not particularly happy for those of us in the minority party at this point, but the Senator from Arizona [Mr. MCCAIN], even though he is now in the majority, was kind enough to call and say he wanted to work together on a number of reform items during the 104th Congress and that he wanted to do so on a bipartisan basis.

We talked about the revolving door issue, the issue of Members of Congress and staff leaving this institution and going to work for some of the interests that they have worked with and regulated in the past. We talked about the gift ban legislation. We also talked about the issue of what happens sometimes when we have a piece of emergency spending, a disaster bill, that comes before us and sometimes things are added to those bills that have very little to do with the disaster and sometimes have very little at all to do with what is being addressed.

So the Senator from Arizona and I decided to join together and introduce a piece of legislation that would limit the abuse of the emergency legislation. I am happy to say we also have some good bipartisan support in the form of cosponsorship by the Senator from Kansas [Mrs. KASSEBAUM]; the Senator from California [Mrs. FEINSTEIN]; and the Senator from Colorado [Mr. CAMPBELL].

The goal of our bill is simple. It is to limit the consideration of non-emergency matters in emergency legislation.

Mr. President, I think this is the right time for this legislation for many reasons but especially for two. The first is, of course, that once again we have the tragic reality of yet another disaster in this country, in particular in the State of California. This time it is floods, and there is a possibility of another bill arising out of the sympathy and concern and need to help the people of California.

Let me be clear. Even though this legislation is about preventing abuses on these disaster bills, my feelings and concerns for those who have suffered from that disaster are very real, and I know that is true of the Senator from Arizona and everyone who is involved in this legislation.

This follows after bills that have had to do with California earthquakes, floods in the Midwest, hurricanes, fires, droughts, you name it. We have had a terrible rash of these disasters in this country so there could, unfortunately, be more vehicles coming through the Congress that would allow the attachment of extraneous matter to this must-pass type of legislation.

So that is one reason. The other is, this is a very good time to bring this up because what we are discussing here in the Chamber, is the balanced budget amendment, the fact that we have got to find a way, whether we agree with the balanced budget amendment or not we have got to find a way to clean up our budget process here. And the balanced budget amendment is one approach. There are other examples of where the American people have seen what they believe to be an abuse of process, the insertion of pork items into pieces of legislation. That means money being spent that probably would not have been approved by the majority of Members if they were subjected to a separate vote and held up to the plain light of day.

So I think it is very important, in looking at the need to achieve a balanced budget and ways to do this, we find a way to stop this practice of funding some of these questionable items. Whether it be the Lawrence Welk thing or the tea-tasting board, these are the things that, even though they might not amount to a whole lot of money, stick in the craw of the American people as symbols of perhaps a fear that the folks out here are not always keeping their eye on the ball and worrying about the tax dollars they have to work so hard to raise and send to the Federal Government.

It is these types of things that wind up on the prime time type of shows, these types of things that cause other pieces of legislation that would otherwise be worthy types of legislation to get names like "Christmas trees" or "gravity train," and this becomes particularly unpleasant when the purpose of legislation is to show the compassion of the Federal Government, in particular the American people, for those who have suffered horrible unnatural disasters in their States.

So these are good reasons to bring this legislation forward at this time. The provisions of the bill limit emergency spending solely to emergencies by establishing a new point of order. The point of order lies against non-emergency matters if they are not rescissions of budget authority or reductions in direct spending. A point of order would apply to any emergency bill that contains a non-emergency measure or any amendment to an emergency measure or a conference report that adds nonemergency matters to the emergency measure.

Mr. President, there are also additional enforcement mechanisms. We prohibit the Office of Management and Budget from adjusting the caps on dis-

cretionary spending or from adjusting the sequester process for direct spending for any emergency appropriations bill if that bill includes the type of extraneous items that we have been discussing.

Mr. President, those are the main provisions of the Emergency Spending Act. I think they are timely also because of the progress that has been made in the last couple of years in reducing the Federal deficit by almost half, by almost \$100 billion. It is encouraging but unfinished progress that has been made that has come from a willingness to identify and follow through on making specific spending cuts and certain revenue increases. I realize that simply creating a point of order is not going to be sufficient to help us make the hard choices out here that we have to make in order to balance the budget. I would say, though, Mr. President, that those points of order and the other rules we have and the rules that we have imposed upon ourselves in terms of caps are some of the effective things that buttress the efforts to identify specific spending cuts.

In terms of the progress in the last 2 years, I think we can very honestly say that we made a downpayment on reducing the Federal deficit, but we have a lot more ground to cover. The rules do help stop it, but no particular procedure, statute or even a constitutional amendment can replace specific policy action, making the hard choices that we must. I think this new point of order can assist us, at least, when it comes to emergency legislation.

The reason I rise on this issue and on this particular bill is that it is these exceptions that cause the people to feel we are not serious about everything we do here.

I am also worried that if we do not go forward with cleaning up the process by which emergency legislation is considered, in the end it is possible people will not look kindly on the idea of having emergency legislation at all—just let people fend for themselves in these places if there is a possibility this will be used to circumvent the fiscal discipline that is needed.

What I do suggest is emergency legislation that has to recognize the urgency but not allow the circumventing of the normal budget process. There are two ways that this process has been circumvented in the past. One way is to declare something an emergency and then have it attached to the emergency bill. That is possible. You do not have to have it be the same set of circumstances or the same natural disaster. If an emergency designation is made, these bills can be put together. The other possibility is the adding of explicit nonemergency items to emergency legislation to get expedited consideration.

Mr. President, our bill does not take care of the first problem. It does not take care of the problem where somebody has actually declared an emer-

gency that may not, in fact, be a real emergency. And I think that is something we have to look at in the future.

Last year, on the California earthquake bill, I recall the Department of Defense managed to call an emergency a \$1.2 million expenditure that was supposed to be for peacekeeping operations, ongoing, continuing peacekeeping operations that we knew about for the operations in Somalia, Bosnia, Iraq, and Haiti. Unfortunately, in my view, that was designated an emergency and suddenly attached to the California earthquake bill. And even though I tried to stop it with an amendment, that amendment was rejected, in part, out of fear that somehow this would derail the California earthquake bill. So I think this is a problem. I think it needs to be addressed. But at this point the problem that I think we can actually address correctly is to establish new rules when it comes to attaching specifically nonemergency items to emergency legislation.

Mr. President, let us look at the California earthquake bill. What was it originally set up to do? Well, it had \$7.8 billion for the L.A. earthquake. It had \$1.2 billion for the peacekeeping missions which I just mentioned and which I think should not have been in there. It had \$436 million for the Midwest floods and \$315 million as a result of the continuing problems from the 1989 California earthquake.

Mr. President, that was the status as the bill came into the Congress. But by the time it left, these additional extraneous items had been tossed on to the California earthquake bill: A \$1.4 million expenditure to fight potato fungus, a \$2.3 million item to give the FDA people pay raises, \$14.4 million for the National Park Service, \$12.4 million for the Bureau of Indian Affairs, \$10 million for a new Amtrak station in New York, \$20 million for a fingerprinting lab, \$500,000 for the U.S. Trade Representative's travel office, and finally \$5.2 million for the Bureau of Public Debt.

All of this was thrown onto and became part of the gravity train pulled by the California earthquake bill. Under current law, if these nonemergency items are on a bill and they are still under the spending caps, then the legislation can go forward. And that is exactly what happened. In the case of the California earthquake bill, the caps had actually been reached but the rescissions had been used, a group of rescissions had been used essentially to offset the cost of these additional items. That, I suppose you could say, is paying for what you want to do.

But, the fact is, those rescissions could have been much better used to reduce our Federal deficit, to do a little bit about the problem we are going to be talking about so much here in the next couple of weeks on the floor of the Senate. How do we specifically find ways to eliminate the Federal deficit? So this process was an unfortunate one.

These items, of course, could have been considered separately in an appropriate appropriations bill and in a more honest and direct manner.

So this issue of emergency spending and preventing nonemergency items from being attached to emergency spending is part and parcel of the overall goal of budgetary sanity and the goal of stopping the abuse that so many Americans like to call putting pork into bills.

I think it could also help make sure that our bills that have to do with disasters have some credibility as they go through the process. They should not be the subject of laughter or derision or prime time shows. The disaster bills should be the expressions of the American people's compassion for those who have been unlucky and subject to disasters that they had nothing to do with creating.

This identical legislation passed the House, the other House, last session, the 103d Congress, on a bipartisan vote as a substitute amendment, 322 to 99, and then finally, as amended, 406 to 6.

I now urge my colleagues to join me and the Senator from Arizona, in supporting this measure. As we engage in this very intense debate on the balanced budget amendment, let us at least join together on a bipartisan basis to get rid of the abuses that have to do with emergency legislation.

Mr. President, I ask unanimous consent that the text of the bill and an editorial from The Washington Post dated August 22, 1994, on this type of legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Spending Control Act of 1995".

SEC. 2. TREATMENT OF EMERGENCY SPENDING.

(a) EMERGENCY APPROPRIATIONS.—Section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not adjust any discretionary spending limit under this clause for any statute that designates appropriations as emergency requirements if that statute contains an appropriation for any other matter, event, or occurrence, but that statute may contain rescissions of budget authority."

(b) EMERGENCY LEGISLATION.—Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not designate any such amounts of new budget authority, outlays, or receipts as emergency requirements in the report required under subsection (d) if that statute contains any other provisions that are not so designated, but that statute may contain provisions that reduce direct spending."

(c) NEW POINT OF ORDER.—Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES"

"SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency."

(d) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies."

[From the Washington Post, Aug. 22, 1994]
EMERGENCIES ONLY

The House voted 322 to 99 the other day in favor of a new budget rule that's a good idea. The Senate should concur in it. If not, the House leadership should find some other way of putting it into effect, for Congress's own good.

The revolutionary notion is that emergency appropriations bills should be limited to * * * emergencies. There tends to be at least one of these bills almost every year. They are used not just to provide emergency funds, but often as vehicles for funding lesser projects of a much more ordinary kind. What better place for a little something for the folks back home than in the fine print of a bill intended to rescue a region from a natural disaster? Who would sink so low as to complain about a minor extra favor in a bill with as generous a purpose as that?

The emergencies-only rule—no hitchhikers in the ambulance—is one of a series that have been proposed by Reps. Charles Stenholm, Tim Penny and John Kasich to tighten up the budget process. We've opposed some of the other changes. This one is called for.

For the sake of the spending that matters, Congress ought to learn to lay off the pork. You see the bad effects of doing otherwise, of lapsing into self-indulgence, all the time. The crime bill is only the latest example of a measure in which critics have been able to use questionable spending to tar and hold up constructive spending as well.

In fact, the amount of pork in the budget each year is greatly exaggerated—and of course what seems to one man to be pork may genuinely seem to another to be spending for an essential public purpose. There's no magic line. But there is some line—and some things seem to be pretty clearly on the porky side of it. Those are the things that people remember, the indefensible examples that come to typify all spending. If only they'd cut out the pork, the public is led to believe, there wouldn't be a deficit. It isn't true, and some of the greatest critics of pork are also among the greatest porkers on the side—but that doesn't matter.

The spenders ought to clean up their act. In this case, the anti-spenders are helping to point the way. The leadership should disarm them by doing as they suggest. Emergencies-only in emergency bills makes sense.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. FRIST). Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. Under the previous order the Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, we are now, really, beginning debate on the proposed amendment to the Constitution of the United States.

I think before we propose to alter our fundamental charter of freedom, in fact, the blueprint for our representative democracy, I believe that we need to each step back from the political passions of the moment. We are debating a constitutional amendment, not just a political slogan or plank of a campaign platform or partisan win or loss or something that is supposed to fit on a bumper sticker. This is the Constitution. This is the bedrock of 200 years of the greatest democracy history has ever known. This is the standard set for the most powerful Nation on earth, the most powerful democracy ever imagined in history.

And even though we have very, very carefully amended this Constitution over the past 200 years—rarely amending, because we know that our whole democracy is built on it—suddenly the floodgates open. We have in the first 3 weeks of this new Congress 75 proposed amendments to the Constitution—75 proposed amendments. Can you imagine what the Founders of this country would think if they actually thought that in 1 year 75 proposed amendments would be here? Seventy-five.

The Founders of our country assumed that maybe once every several generations there might be some huge matter so necessary to amend the Constitution. Nobody ever assumed 75 proposals would come rushing in.

The House has passed one. It is not the extreme version supported by the House Republican leadership, but they still passed one. The Senate Judiciary Committee sent a companion measure to the full Senate for consideration.

Indeed, we have a backlog of proposed constitutional amendments in the Judiciary Committee. After a single day's hearing, we have two constitutional amendments to limit congressional terms on the committee's next agenda. There was also a hearing on another important topic, line-item veto, on which are pending four more constitutional amendments.

The proposals for constitutional amendments already introduced in this

Congress range from the so-called balanced budget amendments—incidentally, there are at least three Senate versions, six versions considered by the House—to congressional term limit amendments, line-item veto amendments, school prayer amendments, retroactive tax amendments, and we are about to receive a proposed amendment to the first amendment regarding the American flag.

I have not seen an amendment to rewrite the taking clause of the fifth amendment, but when you look at the revised name of the subcommittee, the Subcommittee on the Constitution, Federalism and Property Rights, you have to assume it is not far away.

Some of these constitutional amendments call for proposed ratification through the State legislatures, but others demand a constitutional convention be convened.

There is a feeling, I guess, that we can do far better by convening one than those who wrote the original Constitution—Madison, Hamilton, Franklin, Morris, and Washington—that we can now do much better. They did not have the advantage of radio talk shows, I guess, or multi-million-dollar political consultants.

I have to ask, with a new majority in both the House and the Senate, what are their plans for rewriting our Constitution? Why the sudden need to change our 200-year Constitution? Do they want to have a host of constitutional amendments come forward or one, two, or five or six? Enough.

The Constitution is a good document. It is not a sacred text, but it is as good a law as has been written. That is why it survived as the supreme law of this land for over 200 years with few alterations. It is binding us together rather than tearing us apart.

Look at the great compromise in the Constitution that allowed small States and large States to join together in a spirit of mutual accommodation and respect, an amazing step, not done because of the passions of the moment, but by great thinkers in this country. And it has stood the test of time. It gives meaning to our inalienable rights to life, liberty, and the pursuit of happiness. It requires due process, it guarantees equal protection under the law, it protects our freedom of thought and expression, our freedom to worship or not to worship as we choose, and our political freedoms as well. It is the basis for our fundamental right of privacy and for limiting Government's intrusions and burdens in our lives.

I worry that we are so bent on moving so rapidly, as though we are passing some kind of an amendment to a minor bill, that we can not fully debate this amendment. That is not the way the Constitution should be amended.

I have to oppose what I perceive to be a growing fascination with laying waste to our Constitution and the protections that have served us well for over 200 years.

The first amendment—the separation of powers, the powers of the purse—these should be supported and defended. It is the oath we all swore when we entered service in this great and historic Chamber. That is our duty, not only to the Senate and the American people today, but to those who forged this great document, our responsibility to those who sacrificed to protect and defend our Constitution, often times laying down their lives to do it, and our commitment to our constituents today, and our legacy to those who will succeed us in this body.

In this constitutional amendment to try to balance the budget, there is added irony. The Republican Party has assumed majority status in both the House of Representatives and the Senate. They control the legislative agenda. They can pass any budget they want. We are talking about a two-thirds vote amendment, a constitutional amendment to balance the budget in the year 2002. It only takes 50 percent plus 1 to pass a balanced budget today. There are far more Republicans than that. There are a majority of Republicans in the House and the Senate. They could pass a balanced budget tomorrow if they wanted and not have to fiddle with our Constitution and say, "Maybe in the next century, the next millennium, in the year 2002, whoever is standing will do it for us."

They want to balance the budget, eliminate the deficits, start paying off the debt, including the huge debt of the Reagan years. The Republican majority could do that by a simple majority vote in both Houses of Congress in a matter of days.

I think that would show the leadership necessary. Instead, having taken over the majority, they propose a constitutional amendment which basically says we cannot trust the majority in the House and the Senate. There is somewhat of an irony here, Mr. President. If they really trust themselves, let us pass one right now.

I am concerned that we are too ready to seek what appears to be the quick fix. The Constitution cannot be amended by sound bite. Supermajority requirements undercut our constitutional democracy. They evidence distrust not only of our Constitution but of the people who sent us here.

Proposed amendments to our fundamental charter require consideration whether they are, in the language of article V of the Constitution, constitutionally necessary. I hope that we are not going to burden the public or the States with a hodgepodge of poll-driven, popular-sounding constitutional amendments at some helter-skelter pace to beat some artificial deadline.

I hope that we will fulfill our responsibilities, not only in our individual committees, but in the bodies of both the House and the Senate, to have fair and open discussion.

I have studied the so-called balanced budget amendment. I have summarized

10 reasons to oppose the proposed constitutional amendment in my supplemental minority views contained in the Senate Report No. 104-5. I will have occasion to speak to these and other reasons during the course of our debate.

I urge my colleagues to consider the views of Senators BIDEN, HEFLIN, and KYL; the minority views, including those of Senators KENNEDY and FEINGOLD; the hearings of Senators BYRD and HATFIELD on this last year. These are, in my view, essential background for this debate.

Let us take a look at this. Let us turn away from what appears to be a closed shop on this issue. Let us turn back from this path before partisan bickering and legislative gridlock overwhelm us to the detriment of the American people. In the U.S. Senate, of all places, we should not be afraid to have ideas debated, openly debated and voted on. Let us not resort to tabling motions on amendments, which allow you to be on both sides of an issue; but let us vote straight up or down. You do not come here to vote maybe, you come to vote yes or no. That is what we should do.

Our distinguished Judiciary Committee chairman has called this the most important matter that we will consider this year. I agree with him, but let us offer amendments and vote on their merits instead of engaging in procedural shortcuts.

There will be much more said. But, Mr. President, I come from a family that has revered the Constitution. I grew up with a father who told me how important it was because it protected the rights of not only the majority but of the minority.

I came from a family that found itself in the early part of this century in a religious minority and most of its life in a political minority in our State. But we knew the protections were always there. We knew they were always there for everybody. We knew we had a Constitution that stood the test of time. That was strong, that could be changed only by great effort, and only when there was an extreme need in the Nation to do so.

Mr. President, that is the philosophy with which I grew up. It is neither a liberal nor conservative philosophy. It is an American philosophy. I hope we hold to it.

I yield the floor, and I understand under the previous order that it would go to the Senator from Minnesota.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that as soon as I finish my short remarks, the next person to be recognized be the distinguished Senator from Minnesota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I thank the Chair.

Now, there is nothing more important we can do than improve the general welfare of all the American families and reduce the national debt that is eating away like a swarm of termites on a log. The way to do that is to pass the balanced budget amendment to the Constitution. To me, unless we do this, we are going to be in real trouble in this country. This past week, the House of Representatives answered the question: If you have to balance your checkbook every month, should not the Federal Government have to balance its books every year?

Their answer was "yes," 300 to 132. They answered the question: Has Washington spent your tax dollars wisely? And their answer was "no"—228 Republicans and 72 courageous Democrats bit the bullet and did the right thing. What a victory for all of us.

Right now, our debt is a staggering \$4.8 trillion. That means that each and every one of us in this country, including every child, owes a whopping \$18,500, and it keeps going up every day.

We can no longer saddle our children with decade after decade of unbalanced budgets. We have not balanced this budget in 26 years, and it appears to me that we have not balanced it but a few times in the last 60 years.

Current interest on the national debt is \$300 billion a year and rising. Believe it or not, that is more than the total revenues that came to the Federal Government back in 1975. If the current trends in Federal spending continue, the Federal Government will double in size and consume nearly half of our gross domestic product in the next 35 years, where today it is consuming a lot less than that although more than it should.

The annual deficit causes untold damage to our economy. It hurts our wages. It raises our interest. It reduces the number of job opportunities for all of us. For those Americans who are retired, the biggest threat to Social Security is the Federal Government's fiscal responsibility—fiscal irresponsibility, I should say—because they are making the Federal dollar less and less important, and actually we will reach a point where it will be worthless. If we do not stop the spending binge, it will kill Social Security.

Instead of supporting the balanced budget amendment, the administration points to its so-called deficit reduction plan as the solution to our problems, but in fact President Clinton's deficit reduction plan was his 1993 tax increase, the largest in history. If you think raising taxes is the way to solve our budgetary problems, then hang onto your hats. You had better hang onto your wallets and pocketbooks as well.

Under the President's plan, the national debt will increase by \$1 trillion in the next 5 years alone, even if all of his optimistic economic assumptions turn out to be true.

It is ironic that while many oppose the Balanced Budget Amendment Act because, they argue, it is nothing but a gimmick, the special interests are out in full force to protect their favorite, expensive, pork barrel spending programs. But whatever happened to the national interests? What about protecting the economic well-being of America and the future economic well-being of our children and grandchildren? We have to make these decisions now, and that is why this debate is important.

Personally, I do not like to amend the Constitution, but we have reached a point of no return where, if we do not amend the Constitution of the United States, we do not put this fiscal mechanism into the process, and we do not adopt a mechanism that forces Members of Congress to make priority choices among competing programs, this country will not be able to maintain its strength as the greatest country in the world and everybody, including every special interest in this country, will suffer in the process.

I have taken enough time this morning. I know my dear friend from Minnesota is about to speak, and I will yield the floor at this time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank my good friend and colleague from Utah for his graciousness, Mr. President. And he is, agree or disagree, a good friend. It feels good for me to say that.

MOTION INTENDED TO BE SUBMITTED

Mr. WELLSTONE. Mr. President, I ask unanimous consent to have a motion printed in the RECORD which I intend to make at some time while House Joint Resolution 1 is pending.

There being no objection, the motion was ordered to be printed in the RECORD, as follows:

MOTION TO REFER HOUSE JOINT RESOLUTION 1

Mr. WELLSTONE. Mr. President, I move to refer House Joint Resolution 1 to the Budget Committee with instructions to report it to the Senate accompanied by a report containing a detailed description of a 7-year budget plan that would achieve a balanced budget by 2002.

Mr. WELLSTONE. Mr. President, I will in the course of my remarks respond to some of what my colleague from Utah had to say, but first, so that my other colleagues in the Senate are aware of what I intend to do on the floor of the Senate at the right time, let me summarize this motion.

I intend at some time to move to refer this resolution, House Joint Resolution 1, to the Budget Committee with instructions to report it back to the Senate, accompanied by a report containing a detailed description of a 7-year budget plan that would achieve a balanced budget by the year 2002.

Mr. President, I ask unanimous consent that a piece by Al Hunt in the Wall Street Journal of Thursday, January 12, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 12, 1995]

THE BALANCED BUDGET AMENDMENT: A CONTRACT WITH EVASION

"We propose * * * to restore the bonds of trust between the people and their elected representatives. That is why, in this era of official evasion and posturing, we offer instead a detailed agenda. * * *"—The House Republicans' Contract With America.

"The fact of the matter is once members of Congress know exactly, chapter and verse, the pain that the government must live with in order to get to a balanced government [sic], their knees will buckle."—House Majority Leader Richard Armey on "Meet the Press" last Sunday, justifying GOP plans to pass a balanced budget constitutional amendment without specifying how it'd be achieved.

Dick Armey probably remembers House consideration last year of a real balanced budget measure offered by Rep. Gerald Solomon (R. N.Y.). It proposed huge cuts in health care, agriculture and income security for the poor, while completely eliminating all aid to Russia and subsidies for Amtrak and air service to remote areas.

The Solomon proposal got a grand total of 73 votes; Republicans, by more than a 2-to-1 margin, voted against it. Passing a balanced budget amendment may be easy; getting a balanced budget isn't.

In a reasonable path to balance by 2002, the budget would have to be cut by more than \$1 trillion. This would be almost 30% larger than the 1990 deficit reduction legislation and more than 40% bigger than the 1993 measure.

The Republicans have excluded Social Security and defense, and discretionary domestic spending already is frozen. Thus a huge burden would be borne by the budget's fastest growing area, health: Medicare and Medicaid now are about 3.8% of gross domestic product; by 2002, without congressional action, these entitlements would soar to 6% of GDP.

The public is solidly behind a constitutional amendment; that's why it's featured in the Contract With America. But, as the Wall Street Journal/NBC News poll revealed last month, voters dramatically turn against it if that means 20% cuts in Medicare, Medicaid and veterans benefits. Thus, Dick Armey & Co. find evasion and posturing more attractive.

(Ironically, in contrast to this duplicitous measure, Senate Budget Committee Chairman Pete Domenici genuinely worries about deficits and wants to atone for the fiscal sins of the early 1980s. His House counterpart, John Kasich, is as knowledgeable and honest as he is earnest on these matters.)

It's outrageous that the GOP's self-proclaimed foes of the old politics whine that it's political suicide to address Social Security now. Last year two old dinosaur Democrats, Dan Rostenkowski and Jake Pickle, specifically proposed to trim cost of living increases for Social Security, raise the retirement age and cut benefits for more affluent recipients. Is it too much to ask the supposedly fiscally responsible Republicans to be as serious?

The \$69 billion current trust fund surplus disappears in less than 20 years when the baby boomers start retiring. To suggest, as some Republicans do, that it'll be more politically palatable to address Social Security when more of these baby boomers are closer to actually retiring is, to be charitable, illogical.

Under a constitutional amendment, even if unfunded federal mandates are abolished, the states will take it on the chin. Governors will embrace a 10% reduction in the 600 categorical grants if they are turned into bloc grants with fewer strings attached. But a balanced budget amendment would necessitate more reductions. The big entitlements for the states—Medicaid, food stamps and welfare—would be cut drastically. Vermont's Democratic governor, Howard Dean, calculates that state funding would be reduced by 40% over seven years; on a state-by-state basis, it's calculated that New York, for example, would lose \$11.225 billion in fiscal 2002, two-thirds of that from Medicaid.

At least those would be real cuts and there would be real debates. More commonplace would be gimmicks such as increased use of loan guarantees or unrealistic assumptions. (The measure doesn't require a balanced budget; it only requires that actual outlays don't exceed projected outlays.) Look for a huge increase in the use of regulatory instead of budgetary measures to meet demands for action, affecting state and local governments and business.

Conservative legal expert Robert Bork, an eloquent opponent of this amendment, has noted that "government need spend nothing on a program if it can find groups in the private sector that can be made to spend their own funds." He also envisions that unelected judges would be dealing with hundreds of suits to enforce—or not enforce—the amendment, as does Ronald Reagan's solicitor general, Charles Fried, who warns that the litigation would be "gruesome, intrusive and not at all edifying." (When House Republicans follow their speaker's advice to read the Federalist Papers, they may glance at number 78, where Alexander Hamilton proclaims that the judiciary should have "no influence over either the sword or the purse.")

Remember, the Gramm-Rudman legislation specifically promised to eventually balance the budget; instead the deficits soared. Democratic Rep. David Obey of Wisconsin sees that pattern re-emerging: "The cycle which quadrupled the deficit in the 1980s will be repeated. The amendment says we need 60 votes to pass a budget that's not balanced." When that horse trading starts, Rep. Obey ventures, all the pressures will be to add spending to attract votes. "In all my years as a legislator I don't think I've ever seen a member say I'll vote for something if you take things out. If this baby passes, I'll make a flat prediction: Three years after it is passed we still have a deficit well over \$100 billion."

More than adding to public cynicism, that will debase the Constitution. Imagine a decade from now a businessman trying to collect \$100,000 because the state has unconstitutionally taken part of his property for governmental use. When the country is violating the Constitution by \$100 billion or \$200 billion, who's going to worry about a paltry \$100,000 constitutional offense?

Mr. WELLSTONE. His piece begins with an interesting quote:

We propose * * * to restore the bonds of trust between the people and their elected representatives. That is why in this era of official evasion and posturing, we offer instead a detailed agenda * * *.

This is a direct quote from the House Republicans' Contract With America. And the following comes from House Majority Leader DICK ARMEY, on Meet the Press:

The fact of the matter is that once Members of Congress know exactly, chapter and verse, the pain that the Government must live with in order to get a balanced budget, their knees will buckle.

Mr. President, yesterday, in Minnesota, I called on the legislative leadership in our State to put together a task force to assess the impact of a balanced budget amendment on the State of Minnesota. I did this, Mr. President—and this has been met with a positive response by legislative leadership—because last week I came to the floor with an amendment based upon a resolution from my State of Minnesota. This resolution was passed unanimously by the State Senate, Democrats and Republicans alike, almost unanimously by the House of Representatives, and signed by our Republican Governor, Governor Carlson, on January 20.

What this resolution said was, "when"—I changed my amendment to "if"—the constitutional amendment passes the Congress, Congress should send to the States, send to Minnesota, an analysis of the impact of this balanced budget amendment on State and local government and on the people in our State.

That amendment was defeated by essentially a party-line vote. I think I received 45 votes for that amendment. Talk about the right-to-know: my amendment simply said that if we pass a balanced budget amendment, before we send the amendment to the States we should provide an analysis of its impact on the people of the different States. I think every single one of my Republican colleagues voted against it. Talk about the importance of being straightforward, stepping up to the plate, being direct with the people we represent. Talk about the importance of the right to know—people should have the right to know what the impact of this balanced budget amendment will be on their lives before we pass it. Talk about the sort of crazy proposition that before you buy a used car you shouldn't lift up the hood and look at the engine. I was really dismayed that this amendment was defeated.

What I am now saying is very consistent with, I think, responsible public policy. My fundamental disagreement with some of my colleagues on the other side of the aisle is that I think we owe it to people in this country to lay out a detailed 7-year plan as to where we are going to make these cuts before we pass this. I think the reason my colleagues do not want to do this is because they do not want to lay out their plans.

Let me give some context, which I think really gets to the heart of this. Using conservative estimates, the Congressional Budget Office estimates that the interest savings that would come from the cuts—let us factor that in, let us be fair—even taking that into account we are talking about a little over \$1 trillion worth of cuts between now and 2002. To get to a balanced budget—\$1 trillion worth of cuts. Where are we going to make the cuts?

On the next graph, Mr. President, is illustrated some real numbers. People

in the country have a right to know where we are heading. By the way, I think the analysis I am about to make is in many ways irrefutable, just in terms of the basic commitments that some of my colleagues have already made. If you add the defense increases, and you also add tax cuts—I think the defense increase was, roughly speaking, \$80 billion over 5 years and I think the tax cut was, roughly speaking, \$360 billion over 5 years—now we are not talking about \$1 trillion, we are talking about \$1.481 trillion.

Now we are no longer talking about \$1 trillion, we are talking about \$1.481 trillion that we are going to have to cut between now and 2002. That is why I am going to move at the appropriate time that we refer this resolution to the Budget Committee with instructions to the Budget Committee that it bring to the Senate a report that contains a detailed description of a 7-year budget plan as to how we are going to cut \$1.481 trillion.

Do we not at least owe that to people in the country? Is that not called truth in budgeting? Is that not called being straightforward? Is that not called stepping up to the plate and being clear and being honest about what we intend to do? Mr. President, \$1 trillion says CBO, and in addition we have a bidding war to raise military expenditures, and in addition we have a bidding war for more tax cuts. Now we are talking about \$1.481 trillion.

Let me turn to the next graph. Here is what I believe my colleague, Senator CONRAD from North Dakota called—and I say this to you always in good grace, "the Republican credibility gap." So far the spending cuts we have heard detailed in the Republican Contract is about \$275 billion. We have seen specifics of \$277 billion of budget cuts. Mr. President, \$1,481 billion is what we have to cut to get to this balanced budget by 2002. So far my Republican colleagues have laid out budget cuts totaling \$277 billion. There is a long ways from \$277 billion here to \$1,481 billion. That is truly the Republican credibility gap. And that is why at the appropriate time I will move to refer this resolution to the Budget Committee with instructions to the Budget Committee that it lay out a detailed plan as to exactly where we are going to make these cuts. We are not going to do well with people in this country once they realize we are quite unwilling to specify where we are going to make the cuts. People are going to begin to see this as a shell game, shifting burdens to the States, to personal income, property, and sales taxes of the states.

When I was back in Minnesota yesterday I said one of the reasons why it was so important to have some truth in budgeting—so important that people have a right to know where we are heading—is because of the likely impact on my State.

The Center on Budget and Policy Priorities issued a report yesterday, and I have some preliminary figures from that report. By 2002, in that 1 year alone where will we in Minnesota be? We will have \$143 million less in Federal education. Where will we be: \$1 billion, in 1 year, less in Medicaid; about \$3 billion of cuts over the next 7 years.

This is another part of what I consider to be, really, a shell game. The cuts accelerate. They are less over the first 2 years and then they get deeper and deeper. When I say in the State of Minnesota we could very well be faced with \$1 billion of cuts in Medicaid in 1 year alone, I want my colleagues to understand that half of Medicaid expenditures go to older people for nursing home expenditures. These are our parents and our grandparents. I think the figures on Medicare go even higher.

What do these figures mean? The Children's Defense Fund estimates that such cuts in 2002 would result in almost 30,000 Minnesota babies, preschoolers, and pregnant women losing WIC nutrition supplements; over 351,000 children losing food stamps; over 154,000 children losing free or subsidized lunches; over 2,004 blind or disabled Minnesota children losing SSI; and over 24,000 children losing access to remedial education.

I have heard my colleagues talk about our children and our grandchildren and the debt. I have voted for deficit reduction. I have voted for several years in a row for the deepest cuts we have seen in deficit reduction in decades and I will continue to do so. But for many children, the future is now. We keep talking about our children and the future, and I bring an amendment to the floor of the Senate 2 weeks ago asking the U.S. Senate to go on record saying that nothing we shall do by way of spending cuts or legislation will increase the number of homeless or hungry children in America and I cannot get a majority vote for that.

Let me repeat that. My colleagues talk about our children and our grandchildren. Maybe our children and our grandchildren are doing well now. We have fairly high salaries, and do well economically. But a lot of our children and grandchildren are not doing well now. For them the future is now. And I came to the floor 2 weeks ago with a reasonable sense-of-the-Senate amendment that we would go on record saying we are not going to do anything that would increase hunger or homelessness among children in America.

Mr. President, did you see the report today that one out of every four children in the United States of America are poor? One out of every four children under the age of 6. What about those children now? I could not get my colleagues to vote for that amendment. I think I understand why.

Let me go back to the chart on the credibility gap for a moment, if I could. Let me tell you why, Mr. President, the two amendments I have introduced in the last 2 weeks have failed

with every single Republican voting against it. The first amendment, we will not do anything that will increase homelessness or hunger among children. The second amendment said we will at least provide States with financial analysis of the impact of the balanced budget on them before we send it to them for ratification. Why were those amendments voted down? What is it that my colleagues do not want people in Minnesota or Tennessee or Utah or anywhere else in the United States to know about the implications of this balanced budget amendment? It is the credibility gap.

These are the parameters. We are talking about, roughly speaking, \$1.481 trillion worth of cuts, and so far my colleagues have specified \$277 billion. That is a big credibility gap. And after you raise the Pentagon budget, and after you do more by way of tax cuts—and then we are saying that we are not going to be cutting Social Security; there seems to be strong agreement on that—in addition you pay interest on the debt. Do we think people do not see through this charade? It is clear where we are going to be making the cuts. Mr. President, I do not know about other States, but I will tell you one thing. When we cut the WIC Program, the Food Stamp Program, subsidized lunches, remedial education, law enforcement, environmental protection, higher education, and any number of other key areas, either our States will walk away from the people or our States will end up having to assume the costs.

These burdens are going to go back to the States. And I can predict what is going to happen. Just as we now, unfortunately, have moved to several tiers—people on the top and many people on the bottom—either we are going to have States that are going to pick up the costs—I can tell you, I will speak for Minnesotans. We are not going to let children go hungry. We are going to make sure that our young people can afford higher education. We are not going to break our contract with veterans. If there are going to be deep cuts in Medicaid and Medicare, we are going to make sure that people continue to have health care when they need it.

So we are going to end up having to pay for it. That is the shell game to this. That is why my colleagues are unwilling to specify what we are going to do. My colleagues are unwilling to step forward and say what we are going to do.

Mr. President, for myself I have never signed on to the notion of a balanced budget in the year 2002 because I think it is so political—and because it would depend on the economic circumstances at the time. For example, we wouldn't want to do huge spending cuts if we were in a recession. Of course, we have to continue with deficit reduction. Of course, we have to balance the budget. But the question is, What gets taken off the table and what gets put on the table? I have not

heard a word so far about cuts in the military budget.

Mr. President, Senator BUMPERS, Senator BRADLEY and I and several other Senators 2 or 3 weeks ago had a press conference looking at a lot of analysis that has been done on defense needs and potential defense and other related cuts. We essentially made the argument that here are some military expenditures that are just simply not necessary when we have to make these difficult choices, and we had cuts totaling \$33 billion over the next 5 years; \$114 million from 1996 to 2010. There are a lot of different programs listed. I will not itemize them today. I will later on in the debate.

Some of these are worthy programs. For example, let me say the space station has many exciting possibilities. But I would far prefer to feed children on Earth in the United States of America than to send a station into space. We have to start making these difficult choices. But I do not hear people talking about any of these big military contractors having to sacrifice. Oh, no. Oh, no. It is the children, a quarter of whom are poor, who do not have lobbyists, who do not have political power. So what we are going to do—which is why we are unwilling to specify the cuts beforehand—is we are going to make cuts based upon the path of least political power.

It is interesting. Again, I borrow from the fine work of Senator BUMPERS. When I hear my colleagues say we have to raise the Pentagon budget. But we will cut the School Lunch Program, we are going to do it. The arithmetic is compelling. We are not coming anywhere close to telling people how we are going to cut \$1.4 trillion. We know where we are going to cut. That is why we are unwilling to be clear about it. That is why we are unwilling to specify before we pass the balanced budget amendment. I have not heard any discussion about cutting military contracts.

Just a couple of interesting figures on this chart. If we take the U.S. defense budget and you add NATO and other allies, altogether we are spending about \$530 billion. Russia, China, and all the rest of our potential adversaries combined, total potential adversaries combined, only spent \$121 billion. The United States alone has a larger defense budget—\$280 billion—than all of our potential adversaries combined, which is \$121 billion. Yet some are talking about raising the Pentagon budget. We are talking about a little more to cut taxes for people, and then we say we are going to have deficit reduction through a balanced budget amendment, but we are unwilling to specify where we are going to make the cuts. We are unwilling to tell people in Minnesota, Tennessee, and Utah, all across the country where they are going to be at 2002 and what they are going to be faced with.

There are, of course, other choices to be made. I will be on the floor later on

with Senator FEINGOLD and others talking about this. But it does strike me as odd and politically troubling, if you look at the Republican contract, if you look at the Contract With America, there is no mention of anything that asks large corporations, or large financial institutions, or any other wealthy interests, to sacrifice at all.

They say we are going to cut nutrition programs for children. There is no question about that. We are going to cut child care. We are going to cut higher education. We are going to cut Medicaid. We are going to cut Medicare—deep, deep cuts that will accelerate as we approach the year 2002. We will likely not do much the first year, before the elections. It is all carefully designed. It has to happen. The arithmetic is clear. But we are not going to touch oil company subsidies at all. We are not going to go after bloated military contracts. We are not going to deal with some of the other loopholes and deductions that a variety of different large, powerful financial institutions are able to take. We are not asking them to sacrifice at all.

That is the reason, Mr. President, we do not want people to know where we are going to make the cuts. We are likely going to go forward and pass a balanced budget amendment without even being willing to be straightforward and clear with the citizens we represent as to what this means for their lives, as to what kinds of cuts we are going to make, in what kinds of programs and how it is going to affect them and their children.

That is why I intend, at an appropriate time, to move to refer this resolution to the Budget Committee with instructions to report it to the Senate accompanied by a report from the Budget Committee containing a detailed description of a 7-year budget plan that would achieve a balanced budget by the year 2002.

Should we not be honest with people and straightforward with people? Why do we not do that? The answer is, we do not want to tell people where we are going to make these cuts. We want to pass perhaps the most important piece of legislation that has been passed in decades, with far-reaching consequences for the people we represent, for the lives of people we represent, and we do not want to, before we pass the balanced budget amendment, lay out the plan as to where we are going to make the spending cuts and other policy changes required, and how they are going to affect our States and counties and our cities, how they are going to affect the people we represent.

Mr. President, it is interesting, I want to make this clear that this is not just an urban issue. I was this past weekend in Jackson County in southern Minnesota meeting with corn and soybean growers. I say to my colleague from Utah that I will bet you the vast majority of the people there are for a balanced budget amendment; I think that is true. But what they are worried

about is that they want to know where the cuts are going to take place. When we hear that subsidies are going to be eliminated, we are all for it if we know where they are and if you give us a fair price in the marketplace. For those of you who know this language—and if you come from Minnesota, you certainly do—they are talking about the loan rate and Commodity Credit Corporation. Give us a fair price, that is all we ask for. Then they say: We have not heard people talk about the fair price and about cutting back on the conservation program, not giving us a fair price. If you do that, you are taking a good percentage of farm income of people who are barely hanging on.

Mr. President, under a balanced budget amendment there are going to be deep cuts and a lot of people are going to be hurt. My colleagues say, well, we have to do all this, it is in the national interest. It is in the national interest to continue to reduce the deficit. It is in the national interest to move toward a balanced budget. It is in the national interest to do it by the same standard that every single family in this country lives by when they balance their budget, which is a standard of fairness, not just targeting those with the least amount of political clout, or going after health care and education, or children and leaving all sorts of other subsidies untouched. That is the way we should do it.

But, Mr. President, we are not going to do it that way. Let me be crystal clear. We are not going to do it that way. Instead, we are going to make deep cuts, we are likely going to pass a balanced budget amendment, and ultimately we may not, because I think the longer this debate goes on and the more people pay attention to this debate, they are going to say wait a minute.

Back to the chart on the credibility gap one more time. They are going to say, wait a minute, Senators, we heard there was going to be a trillion dollars in spending cuts, and then we hear that there are those saying they want to increase the Pentagon budget by \$80 billion over 5 years; then we hear everybody is in this bidding war to cut more taxes which means less revenue, which has to be offset somewhere. Now we hear that the estimate, conservatively speaking, is \$1.481 trillion. So far, proponents of the amendment have only specified \$277 billion worth of cuts they are willing to make. We would like to know, Senators, Democrats and Republicans alike, where are you going to make the cuts? How is it going to affect us? Is it going to be according to some standard of fairness? Are we going to have to pick it up at the State level? Is it going to be the property tax or sales tax that now we are going to get hit with?

Well, people have every right to ask those questions. In fact, there is overwhelming support in the United States of America for the right-to-know proposition: Recent polls show over 85 per-

cent in favor. Last week, I came to the floor with an amendment that I thought would pass. It was so reasonable. It said if we pass a balanced budget amendment, let us send it to the States with a detailed analysis of how this will affect Minnesota or Tennessee, and the people who live in our States. It was voted down, essentially a straight party vote.

Mr. President, over the weekend, I have been thinking long and hard about this. I have decided, before we get too far into this debate, I should come to the floor before we get too far into the amendments and move to refer this resolution to the Budget Committee, with instructions for the Budget Committee to come back with a report that contains a detailed description of the 7-year budget plan. That is reasonable. It is consistent with being accountable. It is consistent with being straightforward with people and with the people of the United States of America knowing exactly what we are going to do. I think that is exactly what people believe in strongly.

So I have filed this motion, and a little later on I will go forward with this motion. I thank my colleague from Utah.

I yield the floor.

Mr. HATCH. Mr. President, I have listened to my distinguished friend from Minnesota. As usual, he is an advocate for those who are poor and have difficulty in our society. I admire him for that. On the other hand, I do not think there is a person in America who thinks for one second that this voracious, money-eating, money-grubbing Federal Government does not eat up an awful lot of this money right here in the bureaucracy. In fact, there are many authorities who seem to indicate that of all the billions of dollars taxpayers are spending for the poor, welfare, food stamps, AFDC, you name it, and the thousands of programs that we have, some believe that only 28 percent of all of that money we pay actually gets to the poor.

Mr. WELLSTONE. Will the Senator yield for a minute?

Mr. HATCH. I will be happy to.

Mr. WELLSTONE. I want to make it clear that I know everything the Senator says he says in good faith, and he is always rigorous in his analysis. When I hear the Senator talk about how there are all sorts of overly centralized programs and bureaucratized programs and there are cuts we can make, I say to the Senator: Fine, the only thing that I am going to do in this motion is to say to the Budget Committee, before we vote, let us be clear about where we are going to make the cuts.

I do not necessarily disagree with what the Senator is saying. I have to see the numbers. But let us lay them out. If the Senator and other members of the Budget Committee can tell me how we get from \$277 billion to over \$1 trillion in cuts and where they are going to be, that is what we should do.

Mr. HATCH. I will get into that in just a minute. I want to make this point, and I am glad the Senator recognizes there may be some merit to this point. We, in the interest of controlling everybody—we liberals back here in Washington—and that is what you have to call us—we have built such a bureaucracy that we are robbing everybody, and very little of that money actually gets to the people that my friend is worried about. And I too worry about those less fortunate than most.

I am the author of the child care bill, along with Senator DODD. He and I were there at the last minute of that particular Congress making sure it went through. Nobody in America was more concerned about child care than I was, and I am a conservative. So I take second seat to no one on this problem. It is not an unknown fact that I was the person who helped to save the Job Corps Program, which is the only program for unemployed youth in our society. It is expensive. It costs over \$20,000 per youth per year. On the other hand, if we just write them off, they are going to cost us better than a million dollars a person by the time they die. We will all have to pay for that.

I can name a number of other programs I have helped to save and have passed here that are very important. I have just as much feeling about the poor and the sick and the needy and our senior citizens as any Senator in this body, including the Senator from Minnesota.

But I know that this bureaucracy back here, that this liberal Federal Government which employs an awful lot of people here in Washington at pretty high rates of pay compared to the average citizen's salary, is eating us alive before the moneys get to those who really need it. And when the moneys finally get there, they are minuscule compared to what we taxpayers have paid.

I hear the distinguished Senator talking about how we have to cut the military so that children can eat. No, we have to cut the bureaucracy so both the military can be strong and children can eat. And we will never do it without a balanced budget amendment.

We get credit for these programs. We get a lot more credit for spending than we do for standing on the floor and conserving.

Having said that, I have been very intrigued by colleagues on the other side, almost none of whom is for the balanced budget amendment. Why? Because they like to spend. They do not want any hampering restrictions on their ability to do good. And I am not questioning their sincerity, but I do question whether they are doing good all the time, laundering the moneys to an all voracious eating Federal bureaucracy.

I would rather send those moneys to the States, where the States, who understand local problems, will do a far more efficient job than the Federal

Government. Our Governors are begging us to send block grants for welfare to them. They do a better job. They will make it more efficient. They will get more help to people and in the end people will be better off.

When Reagan became President, I became chairman of the Labor and Human Resources Committee. That committee overviews between 2,000 and 3,000 Federal programs. President Reagan came to me and said, "Orrin, you have six of the seven block grants in your committee."

Now, it was an interesting thing, because I had a heck of a time getting any block grants passed. It was still a pretty liberal Congress, even though the Republicans had taken over control of the Senate. But the House was still controlled by Democrats.

I was having a rough time. One day President Reagan called me and said, "Orrin, what is the matter with you up there? Why can't you do what I have asked you to do?"

And I have to say that I was not quite as respectful to the President as I should have been—and I have always been. I said, "Wait a minute, Mr. President." I said, "Have you looked at the makeup of our committee?" There were seven total liberals on the Democrat side and two liberals on the Republican side. The committee was 9 to 7 in favor of what Senator KENNEDY wanted. I said, "How do I put through block grants with that kind of a lineup?"

I will be honest with you. We did. We fought for them and we were able to get some of them through. Some of them were pure block grants and they work magnificently. Some of them were hybrids. They were partly block grants and partly categorical programs. And some were called block grants but were not.

I give a lot of credit to Senator KENNEDY for working with me to do some of the things that we did. And they worked. In fact, one of the leading liberals in the Congress came to me—in fact, I would say one of the three or four leading liberals in the Congress—came to me and said, "Now, don't ever quote me by name"—and I am not—"but those block grants work." They work. And the reason they work is because we do not go through this voracious grab by Federal bureaucracy for everything.

When I see the little bit of money that gets back to the poor from the programs advocated by those who share the viewpoint of my friend from Minnesota, who has been making these wonderful arguments about how deeply he feels about the poor—nobody feels more deeply about them than I do—when I see the little amount of money that gets back to them once it is laundered through the Federal bureaucracy, where we see all these sociologists, all these Ph.D.'s, and all these people who are paid pretty high wages as they manipulate, manage, fuss, and bother, and work on programs and

come up with new ideas every time you turn around, when I see how little money gets to those people, I just shudder.

This balanced budget amendment will make the Federal Government more efficient. It help us help the poor more. It will make every dollar count. And I do not care how liberal you are; I do not care how conservative you are. You are going to have to work within a structure that requires us to live within our means, or at least go in that direction.

This amendment does not always necessarily require a balanced budget. It just puts on a fiscal mechanism which forces us to at least move in that direction. Because if you want to increase the deficit, you are going to have to have a three-fifths vote to do it. That means 60 Senators in the Senate would have to vote for any increase in spending. If you want to increase taxes, you are going to have to have a constitutional majority, which means you cannot do that with less than 51 actual votes in the Senate and 218 actual votes in the House. Most importantly, you are going to have to vote, where now we just hide it by voice votes. We just go along with business as usual.

We do not worry about these things. The fact is this amendment would make us worry about these things. It would make us a little more concerned about where all the moneys go.

If there is waste in the military, and we all know there has been—I do not think there are any more \$600 toilet seats and \$500 hammers or screwdrivers—but the fact of the matter is, if there is waste, we as Members of Congress can no longer blithely ignore that. We are going to have to look for it and we are going to have to get rid of it, because we are going to have to live within certain economic constraints, which is where we ought to be and what we ought to do.

(Mr. KYL assumed the chair.)

Mr. HATCH. The poor are being ripped off because, as the distinguished Senator from Illinois has said on many occasions, if we keep going in the direction we are going, we are going to have to monetize the debt. And once we do that, this country's power in the world, economic clout in the world, its stability in the world will be gone, because nobody will believe in the dollar after that, because we will have paid off all these debts with worthless dollars, or at least very, very much devalued dollars.

Now, that is where we are headed unless we do what is fiscally responsible, that which Thomas Jefferson indicated he thought we should have put in the Constitution from the beginning: That is, put in a fiscal mechanism in the Constitution that is not so tight that you cannot operate within it, but is not so tight that you cannot have unbalanced budgets if that is in the best interests of the country.

If military spending is not efficient or unnecessary, we ought to correct the military. But there are not the incentives or the pressures to do that today because we simply spend the money the money with virtually no restraint. We just spend the money.

If we are wasting money on social programs, we ought to correct those wastes. But we do not do it today because we just spend the money.

If there are other programs in the Federal Government that are not working and are not as valuable as some programs, we ought to bite the bullet and get rid of them. But today we just spend the money.

Now I have seen for 18 years those who are against the balanced budget amendment come on this floor time after time or speak in public time after time or on television shows or on the radio, and say, "We ought to have the guts to do what is right here. We ought to balance the budget and we ought to do it without a balanced budget amendment."

Well, we ought to. But the fact of the matter is, there are not the votes to do it. People will not do it because there is no fiscal mechanism in the Constitution that requires them to do it.

So when somebody comes on the floor and says, by the way, they have always been an opponent of the balanced budget amendment, and almost all of these who are critics are, the new game in town is to say, "Show us how you are going to get to a balanced budget in 7 years." We have three or four plans around here that show that. The problem is, we do not have the votes for any one of those plans to do it. So nobody in this context can show exactly how we are going to get it in the year 2002 unless we have a mechanism that forces us to do it. That is what this is all about.

So when the new methodology to defeat the balanced budget amendment is, "Show us how you are going to get there in 2002," I can give them 20 plans that will show them that. The point is there is no incentive or power or force or mechanism to enact any of them in the current Congress without a balanced budget amendment forcing us to meet these problems.

So that is why this is important. We do not want to put the cart before the horse. We need to pass the amendment. That puts the mechanism in that makes Members of Congress make priority choices among competing programs.

I happen to believe that Members of Congress believe in the Constitution. I happen to believe that they believe in the oath of office that they have taken. I have seen a reverence for the Constitution no matter what the philosophy of people in the Congress. It is the same in the States. The State legislators revere their constitution. We revere ours.

I do not think it is a naive belief to say if we pass the balanced budget amendment and it is submitted to the

States and it is ratified by three-quarters of the States, that we will do what has to be done; we will live within our budget limits; we will force ourselves to debate the implementing legislation and how we get to a balanced budget by the year 2002, if possible; or we will vote to either increase taxes or to increase the deficit, because it cannot be done. But that will never happen. But today that type of a debate will never happen—with any hope of fruition—unless we have the amendment mechanism in the Constitution to force Members to do it.

Government excess spending is our biggest threat, to our eyes on this side of the floor. To the distinguished Senator from Minnesota, failure to curtail excess spending in the military is one of the biggest threats. Military spending is now the third largest item in the Federal budget. The second is that interest against the national debt, that is over \$300 billion and will approach \$500 billion shortly after the first of the century if we do not do something now.

So, this call, to cut military spending without a balanced budget amendment, is a fruitless call. Nobody has been able to do it so far. We have tried through the statutory methodology. I was sitting right back there in 1978, and I remember when we passed the Byrd amendment that required the Senate to balance the budget in what I believe was 1980. Yet, an amendment was offered that required a 51-percent majority vote for a balanced budget. This completely subverted the very important Byrd measure that had previously just passed by an overwhelming vote on the Senate floor. There was no constitutional force or requisite to meet that challenge that Harry Byrd made. It went down to defeat.

Then we came up with Gramm-Rudman-Hollings. I cannot say that it did not work at all. But in the end it was a simple statute that we did away with and changed its goal and timetables. Frankly, it never really worked well. And today we are right back where we started. True, with the largest tax increase in history, the deficit trend line has gone down and will go down until 1996, when it just shoots right straight back up again.

What are we going to do, raise taxes again and solve this problem that way? Or are we going to start working on priority choices between competing programs in the budget? The only thing that will get Members to do that is a balanced budget constitutional amendment. It is not because people in Congress are bad people or they do not want to do what is right. It is that there is so much pressure to spend here. There is so much pressure by every special-interest group in this country to cover their problems and solve their difficulties.

We are sincere. We want to do what is right. But right now we do not have to because there is no mechanism forcing Members to consider doing what is right. This amendment is a bipartisan

consensus amendment that we have worked out over a period of almost 10 years now, since we passed the first balanced budget constitutional amendment through the Senate and lost in the House back in 1982.

A lot of us, somewhere, worked on it. It is important. A lot of Democrats have worked on this. A lot of Republicans have worked on this. Any one of us could write a tougher amendment, one way or the other. But this is a bipartisan consensus amendment. This is the only one that has a chance of passage. It will do the job because it does three things. It does more than three things, but three things I want to mention. It requires a recorded three-fifths vote to increase spending. To increase the deficit, you will have to get a recorded three-fifths vote to do so. Once you do that, everybody in America will know who voted that way. They may agree with it. But they may not, either. And everybody here will have the pressure on their backs to determine whether or not it is the right thing for them to do. Today, we generally lift the debt ceiling by a voice vote. Nobody wants a recorded vote on that issue, and thus raising the debt ceiling has become automatic because we do not have a recorded vote.

Second, if you want to increase taxes, you have to have a constitutional majority. That is important. Any legislation could be passed here by a vote of 26 to 25 because we have 51 Senators making a quorum. Anything else could be passed by less than 51 votes. Once this amendment becomes law, the only tax bills that could be passed through both Houses will be those bills that get an actual 218 Members to vote for them in the House, and an actual 51 in the Senate.

Third, and I have alluded to this before, we have a recorded vote to raise the debt ceiling and there is a three-fifths requirement to do so.

Those are three very important reasons why we should enact this balanced budget constitutional amendment.

Now, there are good worries on both sides of the aisle on almost every aspect of this. We can raise all kinds of hairy problems. The fact of the matter is that this is a bipartisan amendment, done by Democrats and Republicans, which is the only one in history that has a chance of passage and, for the first time in the history of this country, has passed the House of Representatives. Back in 1982, an amendment that was not quite as good as this one passed the Senate by 69 votes; in other words, 2 more than we need. We have to have 67 votes on a constitutional amendment in the Senate.

I believe this amendment is worthy of passage. I am fighting arm in arm with my fellow Democrats who are linking arms with me and with others on this side who have worked so hard to try to pass this amendment. We are fighting together, side by side, trying to get it through. I believe we have a

chance at doing it if the American people really get on the backsides of their Senators and let them know that this is something that has to be done. Nothing short of that will get this done.

There are other things I would like to say, but I think there are others on the floor who would like to speak to this matter. I defer other remarks to a later time. I yield the floor.

Mr. GRASSLEY. Mr. President, I want to support House Joint Resolution 1. The significance of the No. 1 is very important. If Members go out and talk to people at the grassroots, they think, to have a balanced budget, there is a need for a constitutional amendment. They think this amendment is the first order of business of any Congress. I think the last election said that it ought to be the first order for this Congress. It is very simple, particularly for middle-class people in America, and the small entrepreneurs and to the farmers of America, that Federal spending must be controlled, the deficit eliminated, and the national debt brought down.

There are very important economic reasons to balance the budget, but more essentially, there are moral reasons to balance the budget. The moral issues, in fact, now, are more important than the economic reasons. Early on, I think we could justify the amendment on economic reasons, but now the immorality of our generation living high on the hog and leaving the bill to our children and grandchildren to pay makes it much less an economic issue. We are borrowing the future of our children and grandchildren through the bad fiscal policies. We must end this practice.

Because every other means has failed to produce a balanced budget, we must enact an amendment to the Constitution. Every other means has failed. Gramm-Rudman I and II. I even remember when I was a Member of the House of Representatives, I worked very closely with another person by the name of Byrd, Harry Byrd, who was a Member of this body, a Senator from the State of Virginia. He was very much a fiscal conservative. He thought, just pass a law that would say that Congress cannot expend more than the taxes raised.

I was in the House of Representatives at that time, and I worked very closely with former Senator Byrd of Virginia to make sure that amendment he passed in the Senate would get through the House of Representatives. I had to, in a sense, camp out in the Chamber of the House of Representatives for about a 2-week period of time to be there from gavel to gavel. I knew that the leadership of that body would want to avoid the membership being forced to vote upon the Byrd amendment when it came over to that body.

Finally, when they knew I was going to stay in the Chamber of the House and force a vote on a motion to instruct, they let it come to a vote, and it was overwhelmingly adopted. So in

1978—maybe it was 1979—we had a law on the books saying that Congress could not spend more than it took in.

But did it do any good? No. The theory is one Congress cannot bind a succeeding Congress, and I suppose that is good constitutional law. So when we passed the succeeding budget that was out of balance, it was then read as overriding the Byrd-Grassley amendment.

So after that and after Gramm-Rudman 1 and 2, we still did not have a balanced budget. Then there were several attempts on my part to merely freeze the budget across the board, and I was joined in that effort, let me say, by my good friend, Senator BIDEN of Delaware, and Senator KASSEBAUM. The freeze in and of itself would not have brought about a balanced budget in the first year, but in 2½ years we would have had a balanced budget. But we could not get a majority for that. After all those efforts, I have become a supporter and advocate for a constitutional amendment to require a balanced budget.

More so than what I have said is my rationale for the constitutional amendment is the fact that in my own State of Iowa we have a constitutional amendment requiring a balanced budget, and I have seen our State legislatures faithfully abide by that, whether controlled by Democrats or controlled by Republicans. I think it works. So we must enact an amendment to the Constitution because nothing else has or nothing else will work. Irresponsible debt threatens our future, not just the future of the young people that are our future but the very form of our society and the freedom, both political and economic, that is an integral part of our society.

I think the reason we look at it the way we should, as a moral issue, is because it threatens our children's future. Our deficits have not occurred because Congress has not taxed the American people sufficiently. Rather, these deficits have developed because of runaway spending. And all you have to do is look at efforts to increase taxes to reduce the deficit—and we have had four or five of those in the period of time I have been in this body—and the deficit does not get smaller. It is still yet larger.

The reason for that is because the Government not only spends every dollar that comes in in taxes, but it borrows another 50 cents almost to spend in conjunction with it. So in fact I think lower taxes, less income, is one less dollar to have an excuse to borrow another 50 cents against to ratchet up spending and ratchet up the deficit.

Washington has not only been irresponsible, but I think this process of our fiscal irresponsibility fosters the wrong values in our society. Spending is increased, and the results of the spending have not been to accomplish what was promised. Programs which have a philosophy that all you have to do is tax and appropriate money and

you are going to solve a social problem just have not worked.

We have to stop the immoral behavior of passing along increased debt to our children and future generations and get out of this time warp that we are in that somehow money spent through the Federal budget or the creation of some new program is going to solve our problems.

A balanced budget amendment fits appropriately within the design of the original document because, as the preamble says, the Constitution was adopted by,

We the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.

"Posterity" is a word that we do not hear much anymore. We run our Government as if the only relevant considerations are what are in today's newspapers, what we do today. We, in elective office, tend to be more concerned about the next election just 2 years away than about the next generation. We consider the consequences of our acts in short timeframes. Rarely do we take account of the effects that our actions will have on posterity's ability to enjoy the blessings of liberty in the way that my generation has and the way that the preamble presumes that our future generations should be able to enjoy the blessings of liberty.

Among the blessings of liberty that our constitutional system has maintained is a standard of living that rises with each generation. Keys to this enhanced economy have been productivity, growth, and investment. In recent years, productivity, investment and savings rates have declined with the concomitant negative impact upon the economy.

The 26-year continuous string of unbalanced budgets has contributed to these poor economic results. I do not think it coincidental that the stagnation of average wages over the last 20 years has been accompanied by high budget deficits by our Government.

Moreover, economic growth in the last 26 years of counting deficits has fallen short of the prior 26 years. Budget deficits have been run up to fund current consumption. The effects of these deficits are already negatively affecting the budget. When we last balanced the budget—and that was in 1969—9 cents of every dollar of Federal spending went to payment of interest on the national debt.

Now, however, 26 cents of every dollar goes toward paying the interest on the national debt. We receive nothing for making these payments, but we will force future generations to pay an even greater proportion of the budget as interest unless we act to pass this constitutional amendment, because all the other acts in good faith that this body has taken have not produced the desired results of a balanced budget.

Moreover, we will have to tax future generations at incredibly high rates just to pay the interest on the national debt if nothing is done. The figures for that problem that lies ahead for future generations vary depending on the assumptions made.

Future generations will pay the vast majority of their lifetime earnings in Federal taxes. Various assumptions bring up various percentages of two-thirds or three-quarters or even 93 percent that future generations might have to pay in taxes just to pay interest on the national debt.

So it is unacceptable that we live high on the hog by masking the true costs of the programs while leaving future generations to pay the cost, meaning the principal plus the interest.

That was not done to us by our grandparents or parents or great grandparents or any of the 11 generations that we have had. It seems to me because it was not done to us, we have even more of a responsibility to make sure we treat future generations with the same respect that past generations have shown us.

I am concerned that some people think that the deficit and the national debt are issues of declining importance. While it is true that the deficit will fall this year, we cannot afford to declare victory and stop worrying about the deficit. The deficit will rise in the near future by the administration's own estimates.

Moreover, I believe that the administration's interest rate forecasts have been too low. Higher interest rates will only increase the portion of the budget spent on interest on the debt. Moreover, deficits themselves increase interest rates in the long run, and higher interest rates harm renters, home buyers, farmers, and small business people—maybe everybody who borrows. But it seems to me that it particularly hurts those people who have to borrow for need or those people who have capital-intensive industries and small businesses to create their own jobs.

Deficit spending has produced other negative consequences. Last year at the hearings held on the amendment in the Judiciary Committee, the former chief actuary for Social Security testified that deficit spending has led to lax Government accounting. If the balanced budget amendment were enacted this actuary testified that Congress would finally have to start examining Government accounting. Just the simple accounting procedures by the Federal Government are way off. There is no incentive to correct the procedures as long as the Government can borrow and borrow and borrow and not have to meet a legal, constitutional requirement of a balanced budget. According to his testimony, one account at the Department of Defense has been mismanaged for 30 years. The State Department has lost account of billions of dollars worth of property. And the Comptroller General has said that

some Government bills have been paid twice.

A balanced budget amendment will force us to take a tough look at Government accounting as well as Government spending. This is all to the good. Rooting out wasteful spending is the best way to make headway against the deficit.

Yes, there is wasteful spending to cut.

Cutting spending does not have to mean that people will be hurt. We have spent trillions on social programs, and the problems remain. In many instances, the programs have made the programs worse. As Ronald Reagan said, "We fought a war on poverty—and poverty won."

Even when a program has good ends, it is frequently mismanaged. We all know how much of the money is wasted on too many bureaucrats, regardless of how well intentioned they are or how much work must be done. It may be true that there are now fewer Federal personnel than in the past 30 years. But does anyone miss the ones no longer there? Has anyone's life suffered as these surplus employees have left and not been replaced?

I believe that the worthwhile and important programs could grow at a smaller rate, and could be just as effective, if they were critically examined and changes made. The programs that do not measure up should be eliminated. We can balance the budget this way under the proposed amendment. Cutting the Washington bureaucracy is the key.

Since the deficit itself is a significant problem, why not just cut the deficit now? Why enact a constitutional amendment to balance the budget? Because, as I hope I made clear, I see no other way. Congress has passed statutes to reduce the deficit. Congress has raised taxes supposedly to cut the deficit. But the deficit has risen. It rose after Gramm-Rudman. It rose after the 1990 budget deal. That was a Republican one.

And in a few years even by our President's own admission, and he is a Democrat, his 1993 tax bill and the budget agreement that went with it will still not keep the deficit from going up within 2 more years, and continue to go up unless we do something more.

We cannot ever eliminate the deficit if we continue on our present path.

If we are to reduce the deficit, we must put a binding obligation on Congress to balance the budget gradually until the deficit is eliminated soon after the passage of the amendment.

Those who believe we can cut the budget deficit down to zero without this amendment should offer an effective plan to accomplish the result. However I believe that they will not do it. Congress as an institution will not cut spending or reduce the deficit unless it is forced to do so. And the only force I know is through the Constitution. There is plenty of will in this body, but that will is directed toward

spending, not cutting. It is toward deficits, not toward a balance of the budget.

We have heard it said that section 6 of the amendment which gives Congress the power to enforce the statute is inconsistent with the claim that statutes alone will not end the deficit. But there is no contradiction. As I have said, in 1978 I was a part of the Byrd-Grassley efforts by a statute that we got through and signed by the President to require a balanced budget. So I think I know. Many amendments are given life by provisions extending Congress the power to enforce them. This constitutional amendment gives us a basis for what was not there when the Byrd-Grassley amendment was law.

Implementing legislation is necessary to make the balanced budget amendment function fully. But the difference between statutes enacted under this amendment and Gramm-Rudman, or Byrd-Grassley is that the Constitution will demand that the new statutes be adhered to, unlike earlier legislation lacking the constitutional imperative.

Mr. President, we need to balance the budget. We can only do so if we pass a constitutional amendment. The American people are watching to see if we make this commitment. The quality of the existence of future generations is at stake. We cannot afford to fail again. We cannot afford to fail making tough decisions today to lighten the burden on our children and grandchildren. We must enact this constitutional amendment to balance the budget.

I think this is the fourth time—maybe the fifth time—since I have been in the Senate that this issue has come before us.

We have passed it at least once. It was by two votes. It was defeated once by one vote. Another time it was defeated by two or three votes, and then a couple of other times we could not get the votes to stop the filibuster. I hope this time we will be successful.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I am sorry. I did not see the Senator from Colorado. I yield time for the Senator.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, thank you. I thank the Senator from Delaware.

Mr. President, I too, rise to speak on the balanced budget amendment to the Constitution. As a person who has been a prime cosponsor of this legislation three different times and on the House side voted for it, I am very permanently committed to it. In fact, in the 102d Congress, as the Presiding Officer well knows since he was also a supporter when we served together over there, we missed it by just six votes. It

was awfully close. A couple of times before that we both signed a procedure in which to take the amendment directly to the floor, and we could not even get it out of committee of the 101st Congress, as I remember.

So there have been a lot of efforts to move this along, and basically do what people are saying now—that is, save us from ourselves. I know in the course of this debate, which may last a week or even 2 weeks, there are going to be a lot of efforts to weaken it, lots of efforts to get us to succumb to the feeling by some Americans that we really do not need to balance the budget, and in fact will hurt jobs or hurt individuals. I do not subscribe to that, and would oppose weakening this in any way, shape, or form.

As better speakers before me have already alluded to on the floor, we are simply in a downward spiral. Last year, \$200 billion was wasted on interest payments. As the Senator from Utah said, not one dime of that money helped build a square yard of highway, or helped build one cell for a hardened criminal, or helped one youngster in need of counseling. All we got for our efforts in the last few years was an \$18,000 bill as they said for every man, woman, and child in America.

There is no question in my mind—and I think everyone knows—that balancing the budget will be perceived as hurting some people in the short run. But in the long run balancing the budget will raise the Nation's standard of living and the rate of savings. According to GAO, a balanced budget by the year 2001 would produce a 36-percent improvement in our standard of living by the year 2020.

OMB Director Alice Rivlin estimates that balancing the budget within 5 years would raise the national savings rate to 6.1 percent. Yet, if we fail to pass a balanced budget, the savings rate will be a mere 3.7 percent—that certainly means trouble for the United States in a competitive global economy where other nations save far more.

Our voters told us that it is time to draw the line. We know that we cannot pass a constitutional amendment to solve every problem. Certainly this is not an ordinary problem. This amendment is required because history has proven, as other speakers have said, that legislation simply will not work.

I remember very well the days of the Gramm-Rudman-Hollings act in which we ended up before we could finally get it passed exempting something like 72 percent of all spending and thereby trying to balance the budget on the remaining 28 percent of the revenues. And it simply will not work. If we make all kinds of exemptions to this legislation, this will not work either.

In an ideal world, this amendment will not be necessary. But, in the real world, it is necessary. I do not think that in fact the elected officials should take all the blame for it because I know my office, like many offices, is

inundated with people who say in one breath, "Balance the budget, reduce my taxes, and get me \$10 million more for my special project." Those special interests, which we sometimes called the third House around here, has had so much influence in protecting turf that we simply cannot balance the budget by legislation.

Just look at the recently disbanded Kerry-Danforth bipartisan entitlement commission. It spent \$1.8 million but failed to come up with a unified proposal on where to cut entitlement spending, which is the largest sector of Government spending.

This amendment gives Congress and the public a constitutional reason to bite the bullet. Congress will have to bite the bullet—we will have plenty of tough choices. Clearly, popular programs probably will be cut, and in fact some good programs may be cut. We must make our very best effort to concern ourselves with the most vulnerable in our society and make sure that they do not get unduly hurt.

According to most estimates, about \$1.2 trillion of spending cuts are going to be needed to balance the budget in the next 7 years.

Already, nearly 50 percent of spending programs have been removed from the new leadership's deficit reduction plan—Social Security, defense, and net interest.

In addition, Congress will probably be required to find more cuts to offset the middle-class tax cut proposals, and other tax cut proposals, that are being circulated around the Capitol.

Certainly, the challenge is enormous. Congress has a responsibility to come up with spending cuts before it passes any tax cuts, and our eyes narrowly focused on a balanced budget in 7 years.

THE RIGHT TO KNOW

Congress also has a responsibility to tell the American people how it will accomplish a balanced budget before it passes one. That is why I support Senator DASCHLE and Senator EXON in their efforts in the right-to-know budget amendment.

Congress must be honest with voters because they have a right to know what we already know. Congress cannot allow its knees to buckle at the prospect of making spending cuts.

We have a duty to fill in the blank lines of the promise of a balanced budget, so that Americans can understand what it means for their lives.

THREE-FIFTHS TAX LIMITATION

Some have suggested that a provision be added to require a three-fifths approval for income tax increases. I oppose such a provision.

It would scare away many supporters of last year's version which almost passed. We have worked far too long to see this opportunity missed.

I also worry that this provision would allow a zealous minority to hijack our Nation's budgetary policies.

More importantly, I think a three-fifths requirement undermines the amendment's flexibility. The amend-

ment should be flexible, able to last the ages, and not dictate the path to a balanced budget.

Congress will pass the balanced budget amendment this year. Passage of this amendment will not be the silver bullet to kill the deficit—only tough choices will do that. I hope we can work together in a bipartisan, responsible fashion for a balanced budget and the future of our Nation and our children.

Certainly, the challenge is enormous. Congress has the responsibility, and I am certainly willing to step to the plate, as many of my colleagues are.

I yield the floor, and just say in passing that I certainly commend both Senator SIMON and Senator HATCH, who are going to be spending an awful lot of hours here on the floor in the next week, for their leadership on this balanced budget amendment.

Mr. SIMON. Mr. President, will my colleague yield?

Mr. CAMPBELL. Yes.

Mr. SIMON. Mr. President, I certainly want to commend the Senator from Colorado for being solid on this issue.

He mentioned the GAO report—which has been largely ignored around here—that says if by the year 2001 we balance the budget, by the year 2020 we will have an average increase, adjusted for inflation, in income of 36 percent per American.

Our choices are very, very striking. I happen to have that report here. I would just like to read this:

Eliminating the budget deficit, and, if possible, achieving a budget surplus, should be among the Nation's highest priorities. Because of the accumulating burden of interest on the mounting public debt, it is important to move rapidly in this regard. Postponing action only adds to the difficulty of the task.

Again, I want to commend our colleague from Colorado for standing up so solidly on this. I really appreciate his leadership.

Mr. CAMPBELL. If I might say, too, in that report, it indicates that because of some severe actions we have taken in the last year or two the deficit is going down a little bit now. But, clearly in next few years, it is going to start to rise again. What we do legislatively is not going to amount to a hill of beans, but it is still going to go up without this constitutional balanced budget amendment.

I look forward to supporting this amendment, and thank the Senator for his nice comments.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I state the obvious. The Senate has begun debate on a proposed amendment to the Constitution. This is, as it ought to be, a solemn moment in the life of our Constitution, for what we debate today, and I expect in the following weeks, is whether to change, alter, or modify the basic document of governance that we have operated under.

Since 1791, the year the Bill of Rights was ratified, Members of Congress have introduced over 10,000 proposed amendments to the Constitution. Admittedly, the new Republican majority is making their weight felt here. We have not only this amendment, but I do not know how many more to amend the Constitution. But there have been over 10,000 proposed amendments to our Constitution. Of those 10,000 since 1791, we in Congress have approved just 22. And, of the 22, just 17 have been ratified by three-quarters of the States and have become part of the Constitution.

We stand here again this year confronting one of our most profound constitutional responsibilities as we consider a change in our fundamental charter. It is one of the glories of the U.S. Constitution that it has been so resilient. Its authors' insight into human behavior and political institutions have proved accurate from our early years as an outpost on the coast of the new world to our current status of a space-aged superpower.

Few changes have been necessary to permit the Constitution to keep pace with our social, economic, and technological revolutions that have transformed our Nation since its founding. But in recent decades, we have faced the problem that we do not seem to be able to solve. We cannot balance our budget, or, more correctly, we will not. And to put it in even sharper focus, I think it is much less important that our budget be balanced. There is nothing magic about the budget being balanced. But what is critically important is that our deficit continue to decline, and that we have a small deficit, if any deficit at all.

At the beginning of the Reagan administration, we swerved from the course that had, since the end of World War II, shrunk the national debt, and we turned onto a path that has led us to where we are today; the so-called Laffer curve. Speaking of "Laffers," it is probably the ultimate "Laffer"—the "Laffer curve." Many of us have worked to impose disciplines needed to restrain the temptation to spend beyond what we tax.

(Mr. GREGG assumed the chair.)

Mr. BIDEN. When the Reagan administration deficits began, I proposed, along with Senator GRASSLEY and Senator KASSEBAUM—and he mentioned this earlier—that we freeze every single solitary program in the Government, anything the Government had to do with, every single solitary one, that we not spend a penny more, not even accounting for inflation, than we spent the year before. Although I wrote the plan with my two Republican colleagues, we received very little support from either side of the aisle. I think our high-water mark 3 years later was 38 votes.

I also supported the Gramm-Rudman process that has been much maligned here in the Congress. It has not worked, but I argue that absent that things would even be worse than they

are today. Gramm-Rudman put caps on the amount of deficits allowed and required a balanced budget. But the requirements changed every year, and the only constant in the process was the annual increase in the national debt and the guarantee of annual deficits.

Those are not the only things that we have tried. Over 10 years ago, I offered my own constitutional amendment to balance the Federal budget—and you might expect me to say, parenthetically, I think it was a superior document to the one we are about to vote on this year. Up through my vote for Senator REID's balanced budget amendment last year, I have held that this is an issue worthy of constitutional consideration. Many suggest that this is not an issue worthy of constitutional consideration.

Well, the fact of the matter is, I think my friend from Illinois is correct when he keeps quoting and referencing Jefferson. If this is not worthy of constitutional consideration—how we are able to bind or not bind future generations—I am not sure what is worthy of constitutional consideration.

That in no way undercuts the opposing argument that writing fiscal policy into a constitution or into a document of governance is a difficult and maybe impossible thing. But the notion that this is not worthy of constitutional consideration, I think, is not accurate. The decision to encumber future generations with financial obligations is one that can rightly be considered among the fundamental choices addressed in the Constitution.

But from the first time the resolution before us here today was proposed, I have been concerned that it could bring with it problems that, taken together, could be almost as bad as the deficit problem that we are all worried about. In the Judiciary Committee, I have described some of those concerns. This year, in committee a number of amendments were offered to fix what I, at least, perceive to be problems in this constitutional amendment. Some of us tried to make this a better proposal. We tried to avoid tying up the courts with constitutional questions about such important details as the President's role in enforcing the balanced budget. We tried to keep the Social Security trust fund off budget, where it is now and where it should stay. We tried to assure that the real cost of the balanced budget amendment, and not just its surface lure, is known to the citizens who will be asked to ratify this amendment in the coming months. We tried to provide a capital budget to treat public investments the way families, businesses, and States treat their own investments.

These and other amendments were not accepted. The reason they were not accepted—and you will hear it repeatedly; my friend from Utah referenced it. It is the one thing that worries me most, as I am one of those undecided votes. I am told that there are five, six,

seven, or eight of us in this place who do not oppose the notion that we have a mechanism in the Constitution to deal with deficits. But we are very unsure of this mechanism. The camps generally divide into two areas. One suggests that it is bad policy, period, to put anything in the Constitution. And there are those who suggest that this is the only answer. I am with that handful or maybe a couple of hands full of people here who find myself believing that it is not inappropriate but believing that what we have before us may not do the job. I have been here long enough to realize that there are often unintended consequences of our actions which are sometimes worse than the problem we have attempted to cure.

Where do we stand now? We have before us the balanced budget amendment, about which many of us have expressed serious reservations, the effects of which in both the short and the long term cannot be predicted with any degree of certainty, although we will find plenty of people on the floor who will predict with certainty how they think this will work. I think any reasonable person, though, will acknowledge that it is almost impossible to predict with a degree of certainty what will happen if this passes.

I hope we can improve the proposal by passing amendments. But there is a second refrain you will hear on the floor, I expect, time and time again: This is the best we could do. This is the best we could do. We have to pass exactly what the House sent to us, because we have never been so close before. We have to take what is before us. For example, I will, in my opening statement here, make reference to some Governors and others who have suggested that a capital budget is a good idea. When I ask people why it is a bad idea, the Senator from Illinois gives me his well-thought-out rationale why it is not necessary or why it is counterproductive. Most others look at me and say: "We cannot fool with this or tamper with this because it is the only game in town now. We are getting perilously close, and we cannot change anything at all."

I respectfully suggest that that is not a very enlightened way to deal with amending the Constitution. I cannot say that I am optimistic that the improvements, from my perspective, that I and others will suggest will be accepted. I fear that there are those who will believe that the mere fact that we will suggest improvements is really designed to kill the amendment. The truth of the matter is that these amendments are designed to make it better. I will speak to the specific changes I would like to see. But the changes I suggest will not in any way undermine the principle of this amendment and would make it more workable, not less workable.

Whether or not we amend this amendment, Mr. President, this balanced budget amendment, may in fact

change our ways. Perhaps we will use the opportunity of a constitutional constraint and make the tough choices to restore sobriety to our budget process. I devoutly hope so.

Of course, it may be that we will decide that the economic and political cost of an annual budget balance are not worth the benefits. It may be that we will make use of both the legitimate escape clauses in this amendment, and other, unforeseen devices to evade the intent of the amendment. Mr. President, I hope we do not, if this passes.

We, quite frankly, cannot be sure that a vote for this amendment will have the effect the authors promise. But we can be sure that if we try nothing, we will remain on the path that we have been on for too many years now, with the notable exception of the last 3 years under the leadership of this President. I know the stereotype is that all Democrats are big spenders and that all Republicans are conscientious with the taxpayers' dollars. Obviously, history does not support that conclusion. If we had not had the Reagan budgets that we all voted on—and we could have stopped them—but had we not had the Reagan budgets and that unusual theory of the Laffer curve, we would have a budget in balance right now. It's out of balance just because of the interest accumulated on and the debt that has occurred as a consequence of the Reagan additional deficits—I should not say Reagan—the deficits produced by Reagan and the Democratic Congress both.

But we will hear a good deal of hyperbole on this amendment. Its supporters promise that it is a cure-all, and its opponents promise that, if it passes, we are going to go to hell in a hand basket rapidly and all our liberties will be taken from us. I hope we keep our eye on the ball here and at least have an open mind to the prospect that we can make this amendment better and still have an amendment.

We will continue to add every year to the debt burden of future generations. We will steal today from the future, squeezing out the savings and investments that could increase our future wealth if we do not do something about stopping the size of these deficits, even if we do not actually balance the budget, if we do not make a change.

The Senator from Iowa pointed out—I think I heard him say, and I stand to be corrected—that in 1969, the last time we balanced the budget, for every tax dollar collected, six cents, or thereabouts, went to pay interest on the debt, and every tax dollar collected in 1993 or 1994—I forget which year he used, maybe it was 1991—but anyway, every tax dollar collected in the last year or so, 29 cents, I believe was the number he gave, or 26 cents, goes to pay interest on the debt.

I am sure someone has looked out over the next 15 years and concluded that if we stay on the track, even the one predicted by the President of the

United States, that we will be requiring an increasingly larger share of every tax dollar just to pay the interest on the debt.

And to me that is the driving force behind this amendment. To me, the beginning, middle, and end is not whether there is a mechanism that guarantees a balanced budget amendment. It is not whether or not there is any magic about it being actually in balance. It is not whether or not we come close. It is about that increasingly larger proportion of the tax dollars collected going for the most useless investment of paying interest on the debt.

When I introduced my budget freeze proposal years ago, the liberals of my party said, "It's an awful thing you are doing, Joe. All the programs we care about, you are freezing them—money for the blind, the disabled, education and so on."

My argument then is one I make now, which is the strongest, most compelling reason to be for this amendment—or an amendment—that if we do not do that, all the things I care most about are going to be gone—gone. So what do we have? We end up with essentially a net reduction in the programs that I cared about over the last 10 years, a net increase in other programs, and a net increase in the portion of the budget that goes to pay interest on the debt.

So the people I care most about—the reason I ran for public office in the first place—are the people that got hurt the most in this process and are likely to get hurt the most because they are the weakest in our society. When an interest group like the PTA comes down here to support money for education, and other interest groups support money for tax expenditures for major businesses, I have no doubt who is going to win that fight. I have no doubt how that is going to turn out.

So if this debt continues to increase, we will continue to tie our hands and our ability—indeed, our responsibility—to set national priorities in our annual budget process because of the interest on the debt required to be paid every year.

This year, the interest on the national debt will cost us \$235 billion. The entire domestic discretionary budget will be \$253 billion.

Now we use phrases like that "discretionary budget," and my staff writes that stuff in. And I keep telling them nobody in the world but people in this Chamber and inside the beltway know what "discretionary budget" means.

Let me translate. The discretionary budget includes everything from the FBI to education, from help for the mentally retarded to the Library of Congress. That is everything. Everything out there that people think is the place where we are wasting money, that people think is the place we can cut to cut the deficit, does not include Social Security, does not include entitlement programs, does not include interest on the debt. The point is, it is all

those things that everybody when I go home who says, "JOE, if you just cut the waste in Government"—if we shut down every department in the Government, we would in effect have an inability to balance the budget in the outyears because we are already talking about interest on the debt equaling almost the same amount of money of all the money we spend on the Government for what the average person thinks are Government expenditures. They do not usually think of Social Security as a Government expenditure. They do not think of the things we generally talk about as the big-ticket items here as expenditures.

By the time this amendment is intended to become law, in the year 2002, the interest on our debt will be \$344 billion, larger than every other category in the budget except Social Security. That is just interest on the debt.

If we do nothing, our inability to control the growth of debt, and the cost of carrying that debt, will tie our hands, preventing us from shifting resources to meet changing needs, which is the essence, in my view, of responsible budgeting, responsible Government.

So, Mr. President, the question before us today and in the coming weeks is not the simple one: "Are you for balancing the budget or not?" Under most circumstances, everyone would agree we should balance our books.

No, it seems to me Mr. President the question is: "Does our repeated failure to balance the budget necessitate a response that all of us agree is extraordinary?" And that is amending the Constitution.

It is by no means that clear that the amendment before us will eliminate deficits. It certainly will make deficits more difficult—which in and of itself is a worthy undertaking—but with a three-fifths vote, we can in fact continue to borrow.

And I hope no one is under the delusion that by hook or by crook some future Congress, less virtuous than we, will not be able to find ways around the restrictions in this amendment.

With little faith in human nature, but a healthy respect for human ingenuity, we should have no delusions on that count.

I think both the supporters and the opponents of this amendment quite frankly overstate the case, though.

I expect the supporters of this balanced budget amendment will, as they already have, proclaim it as a panacea that will cure a structural defect in the way that a democratically elected legislature weighs fiscal responsibility against the demands of constituents. The supporters will proclaim its passage as the end of deficit spending.

The opponents of this amendment may agree that it will drastically change our Government, but, they will argue, for the worse. I expect they will describe the pain that the deep cuts will cause to the American people—the elderly, the poor, the military, the

farmers, and the rest who depend on Government—and paint a bleak picture of life under a balanced budget regime.

I say to my colleagues on both sides of this debate that all these claims overstate the case.

This amendment will not magically cause deficits to disappear. The hard work of cutting must still be done—and it should be done by us.

This is hard work. Evidence the fact that everybody acknowledges that the President's budget package reduced the deficit, yet everyone went out last year and ran on this gigantic tax increase. It increased it only for the very wealthy. The middle-class taxpayers paid no more. In fact, they got reductions in some cases. And those who were low- or middle-class income taxpayers with children, they got an actual reduction in their taxes.

But yet this thing, this horrible thing we did, which touched the top 1 percent of all the taxpayers in America in any meaningful way, was so horrible and so bad—even though, by the way, in that same document the President said and we voted that we would freeze spending; we would freeze spending in all these other categories—it was so bad the other side could not even muster up the courage to give one single, solitary vote for reducing the budget deficit by a half-trillion dollars over the outyears. And the deficit went down. It actually went down.

Yet, if they could not muster the courage for that vote—which obviously cost a lot politically because if you notice there are fewer desks on this side of the aisle than there are on that side of the aisle; obviously they were right, politically anyway. If they could not muster the courage for that vote, how are we going to find over \$1 trillion to cut?

I mean, this is incredible. It is incredible the degree of self-delusion you will see us all engage in over the next couple days, the next couple weeks. But this amendment will not magically cause deficits to disappear.

Nor will this amendment turn democratically elected officials in Congress, as the opponents say, into hardhearted authoritarians who will ignore the cries of their constituents. That is what my friends opposed to this amendment basically will say.

Even under this amendment, the economy will falter and need shoring up. That is going to happen no matter what we pass. I do not think anyone can tell me that this amendment is going to take us out of the cycles we have been in for the of the past 200 years, particularly the past 60 years. The economy will falter at some point and it will need shoring up.

Foreign dictators will rattle their swords and we will be called upon to respond by spending billions of dollars to send armies somewhere.

Rains will fall and plains will flood, and Federal disaster relief will be called for, to the tune of billions of dollars. I remember when, in the section

of the country of my friend from Illinois, he and others were in here pleading that we should continue to reroute the Mississippi and every other river in America and we should reimburse people for that disaster. And most Members stepped up to the ball and helped. Now our friends on the west coast are accurately pointing out that there is billions of dollars worth of damage because of earthquakes and fires and floods and rains. Are such natural disasters going to stop? Is anyone going to suggest that this balanced budget amendment will send a message to God, as well, and say, "OK, God, we balance our budget, now you hold off from here on."

Our population will age, and the need to support the medical and social needs of those who supported us when we needed it will not diminish. It will grow. Costs will grow. And on and on and on and on.

I predict that from time to time—perhaps more frequently—three-fifths of Members in Congress will agree that some need of our people is so great that we will agree that this year we will not balance the budget, or this year we will screw up the courage to have people pay for what they say they want through the Tax Code.

I realize, incidentally, that is a horrible thing to suggest. I always find interesting, everything that we hear about the balanced budget—with the notable exception of my friend from Illinois and a few others that are the chief sponsors of this—is always in terms of "cut spending."

Whatever happened to the old conservative discipline about paying for what you spend? Paying for what you spend. I thought that meant that if we spend, then we ought to tell people how much it will cost to spend. If they do not want Members to spend, then we should not spend. But if they want to spend, we should be honest, must tell them what it will cost.

Which brings me to the argument raised by some that before passing this amendment we should tell the American people how we intend to balance the budget. There are those who claim that this is just a sham on the part of the opponents of the balanced budget amendment. Well, I am not an opponent of that amendment, but I want to tell Members it does not seem to be unrealistic for someone to lay out in broad details at least how it will work. Those people say, "Wait a minute; if you are for the balanced budget amendment, you ought to say how to balance it." Most people who are against the balanced budget amendment are not saying that we have to balance the budget; they are saying that our budget should be somewhere around 19 percent of GNP, that we should not put ourselves in the position where we are out of whack. They argue, like many economists, that balancing the budget in and of itself is not a sacred undertaking and could be counterproductive.

It seems to me that we should tell the American people. I look at the polls out there. For example, I want to go on record, and I am up for reelection this year, and I will remind everybody what I did at home, which will cost me politically. When I argued that we should freeze Federal spending, I meant Social Security as well. I meant Medicare and Medicaid. I meant veterans benefits. I meant every single solitary thing in the Government. And I not only tried it once, I tried it twice, I tried it a third time, and I tried it a fourth time.

Somebody has to tell me in here how we are going to do this hard work without dealing with any of those sacred cows, some deserving more protection than others. I am not quite sure how you get from here to there. I am sure that we should tell the American people straight up that such an amendment is going to require some big changes.

The balanced budget amendment will not end our deficit in one fell swoop, nor will it cause our Nation to turn its back overnight on those who depend on us. All it means, as the Senator from Utah said, is that we will have to stand up more often and be counted on these things. I find that a good thing, not a bad thing.

As we begin this debate, let Members keep a decent perspective on the true consequences of this amendment. It is important that we not overstate nor overpromise what the amendment will do. Let Members debate this amendment with all the seriousness that a constitutional amendment requires, to ensure that the amendment we propose to the States and the American people merits the honor of being included in our most fundamental covenant of self-rule.

So what, then, are the concerns that many Members, those so-called undecided voters, bring to this debate?

First and perhaps foremost, it seems to me we must examine whether the amendment is likely to shift the balance of power between the branches of Government to an extent never experienced or expected by our forefathers. It was the wise position of the drafters of the Constitution in 1787 that the Congress, being the most representative branch, the most democratic, and the most sensitive to—and ironically that is why we are needing this amendment. Everybody should not lose sight of that. We say that Congress is not responsive, and that we should be more responsive to people; and then we are told the reason we need this amendment is we are too responsive to the people. Whatever they come and ask for we give to them in a painless way. Kind of fascinating how we sort of turn these arguments to whatever benefit the moment allows.

The fact is we are the most representative branch. We do respond to the people, and that is how we were supposed to respond based on what our Founders intended. And we are the

most democratic and most sensitive to the public needs.

Because of all that, the drafters of the Constitution spent a lot of time debating this little point on the second floor in Philadelphia, because they did not want the debate to take place on the first floor. They were afraid people would eavesdrop and hear what is going on. This was before "Government in the sunshine." The delegates to the Constitutional Convention sat in the second floor so people could not walk by and eavesdrop. What they were saying on the second floor is, "Look, if we are going to give the power to tax and spend, we better give it to the outfit that will most directly respond to the people. Taxes, we will give that to those guys in the House that get elected every 2 years. We do not want the Senators—who were not popularly elected in those days—to do that. They can only respond to a tax bill proposed by the House."

So there was a real solid reason why, in setting out the balance of power, taxing and spending was put in the Congress. James Madison, who is recognized as the father of the Constitution, called this power of the purse "the most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure."

That power of the purse has remained with the Congress for over 200 years. This amendment threatens to take away a good deal of that power and to share it with the President, a fundamental shift of authority that will irretrievably alter the balance of power established in the Constitution.

Senators might say, well, how, in fact, does this amendment threaten to shift the power to the President? Because, I am convinced, Presidents will seize on the language of this amendment to claim a constitutional power to impound; that is, to refuse to spend money that Congress has duly appropriated. This power to impound would give the President wide-ranging authority to undo or redo Congress' spending priorities without limits, or at least so a President would claim.

Now, you may say no President will do that, JOE, and as a Democrat I am happy that this guy downtown is of my party. I am sure he would not do that. But let me ask you, what do you think Nixon did? What do you think old Lyndon Johnson would have done? What do you think Franklin Roosevelt would have done with his power? Now, maybe we are not going to have any more Roosevelts—I hope that is not true—or Johnsons or Nixons, but we just may very well.

What does it mean for a President to wield this power? It means the President could decide to change the way the Congress had allocated funding in spending bills; for example, taking away money that ensures that small

States get their fair share. Let me be parochial for a moment. I am a Senator from Delaware, one of the smallest States in the Union, the fifth smallest population in the Union.

When we pass bills here to make sure that all persons benefit, whether they live in New Hampshire or Delaware or Utah or Wyoming or Alaska or other small States, we sit and we make sure the formulas we write into the bills do not let all of the money go just on a per capita basis. We usually get together—and there are probably somewhere between 18 and 20 of us, that is, States who find themselves in that position. Well, if the President gets to the end of the line here, the budget is not in balance, we have not passed a balanced budget—I might add we will not know whether or not this will be in balance as we go along because it is based upon predicted revenues. So we spend based on predicted revenues. That does not account for emergencies. That does not count significant downturns in the economy, or a lot of other things that come into play.

But if, at the end of the line, we pass a budget that we thought was in balance but, in fact, was out of balance, that means the President, under this amendment, arguably, could say, "That is my job. I will redo this." I know what I would do if I were President and I wanted to balance the budget. I would pick off the smallest States and cut the moneys that were allocated for them. They are the least powerful in Congress. They cannot do much. They do not have that many Representatives. Over here, because we make up a minority, we might find ourselves in difficulty.

Now maybe a President would not do that. But he would have that power, under the amendment. The President could change detailed policy set by Congress; he could conclude on his own that Congress put, for example, too many military bases in South Carolina or Kansas or was spending too much on medical treatment in Utah or Mississippi.

Do we really want to give the President that kind of power? I think not.

Along with this power to spend, according to Walter Dellinger, a noted constitutional scholar and now the President's top constitutional adviser, this amendment could even be construed to give the President the power to levy taxes, to raise needed revenues. I think that is much more unlikely, quite frankly, although it is arguably possible.

Do we want to give the President that kind of power? I do not think we do.

In committee, I supported Senator KENNEDY in offering an amendment to make it absolutely clear that the balanced budget amendment is not intended to shift to the President a major piece of Congress' historical power to tax and spend.

Not a single one of my colleagues that I am aware of disagreed with the

point of the amendment. Nobody disagreed with the point of the amendment. Some said not to worry, it cannot happen, or it probably will not happen, or it is unlikely to happen. But everyone acknowledged that if it happened, it would be a bad thing. And yet a majority, all the Republicans and a couple of Democrats, voted en bloc to defeat this amendment claiming it was not necessary, that after-the-fact legislation could take care of the problem, the so-called enabling legislation.

I sure would like to know that before we pass this. I would like to know whether or not a President can do that. Why do we not just make it clear that Congress has the power to resolve any discrepancy between spending and revenues that is left at the end of the year—the Congress, not the President.

Now, maybe that is what the Congress will do. Maybe the President will not over-reach. But I have never seen, as a student of history, any time where there has been a vacuum in power created that the administration, Democrat or Republican, has not stepped in to fill. And I have seen very few times when the Congress on its own volition has stepped up to the ball to fill a vacuum when filling the vacuum would require them to make hard decisions. And so I do not think it is unreasonable to suggest that future Presidents may seek this authority to impound.

It's not necessary to spell out in the amendment that the President should not have this power? Well, I say that a principle as important as preserving the balance of power should be stated as plainly and boldly as possible in the balanced budget amendment itself.

Now, as we debate this, I will be happy to hear anyone say that the President should have that power. I suspect everyone is going to say he should not and this amendment does not give it to him.

Well, if that is true, what is the big deal of including it in the amendment? It is not inartful. It can be artfully done. It does not ruin the symmetry of the amendment. It does not go to the heart of whether we have to balance the amendment. It merely says we are not going to shift the balance of power, no doubt about it.

Our Constitution, that durable and flexible document, has endured for over 200 years. The chief reason it has endured is because the self-correcting checks and balances that have kept one branch from dominating the other have been maintained. In the days to come, I will support, if not offer, efforts to modify this amendment to ensure that in addressing this important issue we do not risk undoing 200 years of history.

The second concern that I have is not a constitutional one. It is a very practical one but no less important for that fact. The balanced budget amendment makes no provision for a capital budget to pay for long-term capital improvements. This amendment will require

the Federal Government to pay for capital improvements—roads, bridges, schools, aircraft carriers, all of which are designed to last for decades—on a pay-as-you-go basis.

Now, this is not the way States or local governments or our families or businesses, for that matter, treat these sorts of long-term items. No. All of these recognize that it is permissible, even prudent, to go into debt to pay for long-term items such as a house, a factory, or a road or an aircraft carrier. State and local governments that are required to balance their budgets every year are permitted by their balanced budget rules to set up capital budgets. They are permitted to borrow money to pay for long-term capital items even though they must balance the rest of their budget.

Now, we hear the phrase used all the time: "States do this; why can't we do it?" States do not do this. If you look at the numbers, the total accumulated debt of the States over a comparable period for the Federal Government over the last two decades, the States have increased debt more rapidly than the Federal Government—almost a 2-to-1 margin.

So before you get on the floor and pound your chest about how your State balances its budget, say how would your State balance this budget if it had the same exact amendment as this.

Now, some States may. Mine does not. Mine is a little tighter, quite frankly, but we are smaller and we are more manageable. Most States that have balanced budget amendments do not, do not, in fact, balance their budgets. They have a capital budget which allows them to go in debt. I believe the Federal Government should have the same ability to borrow to pay for capital items as State and local governments do and that we should amend the balanced budget amendment to assure that we give proper weight to our long-term needs.

I am not alone in this view. The Wall Street Journal editorial page, that bastion of conservative thought, has criticized the balanced budget amendment because it lacks such a capital budget. Here is what the Wall Street Journal had to say.

To understand the economics, start here:

Referring to the balanced budget amendment.

Start here. If all American households were required to balance their budgets every year, no one would ever buy a house.

Of course, households don't think about their budgets that way; they figure 'balance' means meeting their mortgage payments. Similarly, State and local governments with a "balanced budget" requirement can still borrow money for capital improvements.

So I say to everyone here in the gallery as they walk out and say, "We balance our budget; why doesn't the Federal Government do it the way we do," well, unless you are a very wealthy person—even then it would not be good economics to do it this way—unless you are a very wealthy person and paid

cash for your house and paid cash for your car, you do not balance your budget. You do not balance your budget like this amendment requires it to be balanced.

I want the Federal Government to have to balance their budget the way households have to balance their budgets, the way States have to balance their budgets. And that is with a capital budget. I have a capital budget—I have a mortgage on my house. I have a capital budget—well, I do not have a capital budget on my car, but most people, when they buy a new car, have a capital budget. I meet that by paying as everyone does and the States do, paying on it monthly, in my case, and the States yearly, the cost of that borrowing and the principal. We pay it down. We pay it off. But the Federal budget, under this amendment, would not allow that.

Now, Gov. Mike Leavitt of Utah, a prime supporter of enacting the balanced budget amendment, testified before the Judiciary Committee that his State has a capital budget provision and recommended that we look further into the question before enacting House Joint Resolution 1.

My own Governor, Gov. Tom Carper, former Congressman of 10 years here in Washington, the strongest supporter from my delegation for a balanced budget amendment, a Democrat, told our Constitutional Subcommittee the same thing last year.

But despite that good advice, this balanced budget amendment does not follow that almost universal practice of capital budgets because it fails to set up a separate capital budget for major physical improvements. It will surely mean less of those improvements, or we will make those improvements and we will further cut in other areas of the budget or raise taxes in other areas of the budget which will cause more great pain, when the more reasonable way to do it would be to do it the way the States and households do it. After all, if families could not borrow to pay for their houses, there would be many fewer homeowners. And if States could not borrow to build their roads, there would be many fewer roads.

Why enact a balanced budget amendment and fail to distinguish between projects that merit long-term financing and those that should be funded from year to year? Under this balanced budget amendment, the incentive will be to focus only on those spending priorities that have short-term payoffs, economically and politically. That is not good for rebuilding the infrastructure of this country, which we all say we have to do to compete internationally. Because that is where the political pressure will come.

If, in my State, they come to me and say why do you not vote to spend more money for the Corps of Engineers that will allow them to dredge the Delaware River and the Port of Wilmington, why do you not do that versus spending

more money for drug treatment programs.

I know when I hear a mallet going down; I can tell it.

I yield to the President, obviously.

The PRESIDING OFFICER. Under the previous order the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15.

Mr. BIDEN. Mr. President, I ask unanimous consent, unless it is contrary to a standing rule, that I be able to take 10 more minutes to finish my statement, unless someone objects to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. We used to do that in the bad old days when the Democrats controlled.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Without a capital budget provision, I fear, this amendment could skew the way we spend money, and in a way that could hurt the long-term future investments this country needs. It does not have to be this way.

In committee I offered an amendment to provide for a capital budget. It was modeled on the capital budget provisions in the States, including my own State of Delaware.

My amendment established a capital budget for major public physical capital investments. It limited that budget to 10 percent of total outlays—about what the Federal Government has spent on such items in recent years. It required a three-fifths vote of both Houses to place any item within that capital budget.

My amendment was not designed to build a loophole into a balanced budget amendment. Under my amendment, it would not be easier to treat an item as a capital budget item as opposed to a current item. It would be harder. It would require a three-fifths vote. But it would be right.

My amendment failed in committee. Without a capital budget provision, I fear that, not right away but as the years go by, this amendment may skew the way the country invests for the future and we may be able to balance our budget in the end, but we will not spend our money as wisely as we should.

A third concern about this balanced budget amendment relates to the way this amendment treats a program that is arguably the most important and most depended-upon program in the Federal Government.

I am talking about Social Security. As we all know, the Social Security trust fund is designed to spread costs over many years of caring for working people after they retire. We pay in today, so 10 or 20 or 40 or 50 years from now we can live out our lives, knowing that we have that minimum Social Security payment.

The Social Security fund is not supposed to be in balance every year or even every 10 years. It is meant to be

balanced over the decades. As this generation of working people pays its Social Security taxes the Social Security trust fund is gathering in a surplus of tens of billions of dollars. Because the Presiding Officer and myself and others are of a generation that is the baby boom generation, or just before that generation, we pay in tens of billions of dollars in excess of what is drawn down by present Social Security recipients—my mom and dad and my uncles and aunts. So there is a surplus. A surplus of \$100 billion will be paid in each year, more than is taken out, around the year 2000—\$100 billion surplus.

Right now \$60 billion more is paid in this year by those of us paying our FICA tax than is paid out to Social Security recipients—\$60 billion. My mom and dad think that money goes into an account. They think that is over there for Social Security. A lot of people in my generation who in 15 years will be eligible for Social Security think that money is being put in an account. Guess what, folks? We are spending it. We are spending it now.

But before the year 2014, that Social Security trust fund will have generated a great surplus. But after 2014, we will have substantial deficits. The reason for that is that the baby boom generation will be collecting Social Security and my sons and daughter will be paying into it. There are fewer of them than there are of us. So fewer people will be paying in and more people will be taking out. It sounds like I am stating what is obvious to everyone but it is not obvious to everyone, obviously. The fact of the matter is, after the year 2014 we will be in deficit in the Social Security System.

The balanced budget amendment makes no provision whatsoever for the unique characteristics of the Social Security trust fund. Instead, it treats Social Security revenues and outlays as ordinary Federal budget.

This means in the years that Social Security is generating hundreds of billions of dollars in surplus revenues it will be used to cover hundreds of billions of dollars worth of deficits that the rest of the Federal budget is creating.

After 2014, when the trust fund goes into deficit to the tune of tens or hundreds of billions of dollars a year, we in Congress will have to cut that much from the rest of the budget to make up for the deficit.

What does it mean? It means that for the next 20 years or so, revenues from the Social Security trust fund will make it look like we have balanced the budget when in fact we have not, and after that the huge outlays from the trust fund will force drastic reductions in the rest of Federal spending, or drastic reductions in Social Security. And that means the pain of cutting will be delayed by years from the effective date of this amendment, but it will be that much sharper when it comes.

So we should get Social Security out of this mix, make it clear that the bal-

anced budget amendment does not deal with Social Security, it is not able to use the surpluses and not deal with the deficits. We should be more honest about it with people because Social Security is at stake, in my view.

For all the reasons I have stated I supported Senator FEINSTEIN's amendment in the Judiciary Committee to keep Social Security right where it is now: off budget. The Feinstein amendment recognizes Social Security is not designed to balance its budget every year but over the years, and it recognizes we cannot honestly balance the rest of our Federal budget if Social Security and its huge swings are included. It recognizes that Social Security is a unique institution that deserves unique protection.

The fourth concern I have is this amendment will shift power to the large States at the expense of small States. By imposing supermajority requirements of three-fifths on both Houses it permits a minority of two-fifths plus one to block an unbalanced budget, no matter how necessary for our fiscal and economic health it may be. This minority veto could be marshaled by representatives of just the five or six largest States in America. If the five or six largest States in America get together and agree on something that they need that the rest of the States do not want, they can prevent us from acting on a national emergency by all of them voting as a block—just six or even five of our 50 States.

The fifth and final concern is that nothing in this amendment forces Congress to begin the work of cutting the budget before the year 2002, the first year we require. What will happen when Congress tries to balance the budget all of a sudden in fiscal year 2002? I fear it will be cause an economic disaster. This amendment ought to have some mechanism to guarantee our Government and our economy moves toward a balanced budget on a "glide path," a gradual descent in the deficit that will get us to a balanced budget without forcing a crash landing in the final year. But this amendment does not do that. It is possible it could be done by enabling legislation but I would sure like to see it.

In the days ahead I and my colleagues will be offering amendments to address these and other legitimate concerns. I hope these amendments receive the full debate they deserve. There are none in this body, I hope, who will argue that an amendment to the Constitution is not worthy to receive that full and open debate.

Under the watchful eyes of our forefathers and with the humility that this awesome task engenders, as the debate unfolds in the days to come I will listen to my colleagues, I will support amendments designed to improve this amendment, and I will urge my colleagues to do the same.

I hope at the end of the process I will be able to do what I intend on doing

now, and that is to vote for a balanced budget amendment.

I thank the Chair for its indulgence and I yield the floor.

Mr. HATCH. Mr. President, I would like to respond to the comments of Senator BIDEN. Although Senator BIDEN has enunciated many reasons for and against the balanced budget amendment, I want to respond to an amendment he intends to proffer, one he made at the Judiciary Committee markup on Senate Joint Resolution 1.

This proposed exemption for so-called capital investments could help evade the purpose of the balanced budget amendment or make it substantially more difficult for future Congresses to make capital investments. I confess that I am not certain of the purpose of the amendment as it is drafted. It appears to be a provision at war with itself. The first sentence seems to encourage capital investments by taking it out of the balanced budget rule. But the last two sentences, seem to be designed to discourage capital investments.

I believe such an exemption raises real problems for five reasons.

First, this provision opens up a loophole in the balanced budget rule and unduly limits Congress' ability to make capital investments. There would be a powerful incentive for Congress and the President to help balance the budget by redefining more programs as capital investments. A gimmick capital budget exemption could actually endanger capital investments as fake investments crowd out real capital investment.

Furthermore, the 10-percent limit ties the hands of future Congresses which may choose among the competing programs to fund more capital investments than this limit would allow. With all the talk about the need for infrastructure investment from my friends on the other side of the aisle, I am surprised they would want to tie Congress' hands this way. A future Congress may justifiably decide to make greater investments in this area.

Moreover, I do not understand what the three-fifths vote requirement adds to the amendment other than to make it procedurally harder for Congress to make any capital investments, regardless of their effect on the deficit. If a given capital investment were to create a deficit and had support of three-fifths of the Members of each House, it could be passed under the balanced budget amendment as it stands without this amendment. If a capital investment was paid for and did not increase the deficit, I do not know why the proponents of this amendment would want to require a three-fifths vote to make that investment. For what possible purpose would we want to discourage future Congresses from enacting such investments?

The proponents must think that a large part of our problem is that we spend too much on "major public physical capital investments" as opposed to

simple transfer payments or social programs. Apparently, whatever three-fifths of the membership of future Congresses think, the proponents of this amendment believe that in no case should the United States invest more than 10 percent of its budget in "major public physical capital investments." Otherwise, I see no reason for this amendment. It is surely a mistake to put such limits on future Congresses.

Second, the loophole problem is aggravated by the fact that there is no standard definition of a capital budget. For example, in President Clinton's proposed fiscal year 1995 budget, OMB lists four broad categories of programs that may or may not be considered capital expenditures—OMB, Analytical Perspectives, Proposed fiscal year 1995 Budget, p. 114. Even within those four broad categories there are questions about what programs should be included. The amendment's attempt to cure the definitional problem only raises new definitional problems. The definition given is circular. And just what does "major public physical capital investment" mean? Each term is subject to substantial debate. It is particularly inappropriate to place capital budgeting in the Constitution when there is no agreement on what constitutes a capital budget.

Third, the Constitution is not the place to set budget priorities. The balanced budget amendment seeks to create a process in which programs compete for a limited pool of resources. A constitutional amendment should be timeless and reflect a broad consensus, not make narrow policy decisions. This exemption creates in the founding document a new constitutional budget subdivision with a percentage cap and a procedural limitation on using it. We should not place technical language or insert statutory programs into the Constitution and undercut the simplicity and universality of the amendment.

Fourth, a capital budget exemption is unnecessary. Total Federal spending has generally been above 20 percent of GDP, and less than 4 percent of Federal outlays are for nondefense physical investment, one of the possible definitions of "capital investment". Given the relatively small and constant share that such capital expenditures have in a very large Federal budget, there is no need to remove capital expenditures from the general budget.

One example illustrates the lack of need for a capital budget. Although President Eisenhower initially proposed that the Federal Interstate Highway System be financed through borrowing, Congress decided to keep it on budget and finance it through a gas tax at the suggestion of Senator Albert Gore, Sr. We are unlikely to have a capital expenditure of this magnitude again. But if we do there is no reason to create an exemption for such investment or to limit the percent of the budget that goes for such investment.

Fifth, capital spending should compete in the budget like all other spend-

ing. The balanced budget amendment seeks to foster an atmosphere in which Congress prioritizes spending options. Senate Joint Resolution 1 does not prevent the creation of a separate operating and capital accounts, but any implementing legislation which creates such separate accounts must leave the total budget in balance, since implementing legislation cannot subvert the clear mandate of the amendment. And such accounting techniques should not subvert prioritizing function of the amendment. The proposed exemption allows the entire budget to be used for noncapital investment, like simple transfer payments, and then allows a 10-percent increase in Federal spending—and debt to fund it—for capital investments. The General Accounting Office saw the fallacy implicit in this exemption when it said, "The choice between spending for investment and spending for consumption should be seen as setting of priorities within an overall fiscal constraint, not as a reason for relaxing that constraint and permitting a larger deficit."

To the extent that the three-fifths vote requirement for capital investments replicates the general provisions of the balanced budget amendment, this amendment is simply pointless. To the extent it goes further, it is a meritless straitjacket on the competition between legitimate spending options in the overall budget process.

RECESS

The PRESIDING OFFICER. The Senate stands in recess until 2:14 p.m.

Thereupon, at 12:39, p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENS).

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. The pending business is House Joint Resolution 1, the balanced budget amendment.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, Mr. President.

Mr. President, in 1992, I campaigned for the Senate as a supporter of the balanced budget amendment. I was an original cosponsor of the amendment voted on in the last Congress, Senate Joint Resolution 41, and I am an original cosponsor of the amendment being considered today. Yet, despite my consistent, outspoken record on this issue, my backing of the balanced budget amendment surprises some people.

In fact, Mr. President, I would add that I went to mass on Sunday, and the social justice committee had:

Senator Moseley-Braun is a possible "no." Please contact her to be against this amendment.

So I want to clarify the record, and I want early on to take this opportunity to tell those of you in this body and my constituents listening at home on C-SPAN why I so strongly believe it is imperative that Congress pass the balanced budget amendment and without delay.

I come from a working class family. My father was a Chicago police officer. My mother was a laboratory technician. We were not what you would call wealthy, or upper-middle class. We did not have a lot of material goods, and my parents couldn't afford to send us to fancy private schools. My parents had to keep track of every dollar to keep us fed, clothed, and housed. Yet, like hundreds of thousands of other children of working class families in this Nation, I was able to get ahead in life, to succeed, because the sacrifices my parents made provided me with the opportunity to do better.

I was able to get a first-rate education by attending quality public schools on the south side of Chicago. I got my first job when I was just 15 years old. To earn extra money for college, I worked as a clerk at the Chicago Post Office. I attended the University of Illinois at Chicago, and then the University of Chicago Law School, because student loans were available to help me pay the tuition. All of these opportunities—opportunities that would not have been available without local, State, and Federal Government assistance—gave me the tools I needed to achieve in life.

The fact that the public—through Government—helped broaden my opportunities is part of what led me to choose a career in public service. I ran for the Senate in 1992 for the same reason I ran for the State legislature in 1978—because I am fundamentally committed to ensuring that future generations have the same opportunities I enjoyed. Every child born in this country—whether black or white, whether rich or poor—should have the chance to achieve his or her dreams. Every person should have a chance to contribute to society, to the maximum extent their talent or ability will allow.

Government should play an active role in expanding people's opportunities. The Government should be able to invest in technology and infrastructure, in job creation and training, and in education, in order to raise the people's living standards. The Government should help unemployed Americans get back on their feet, it should help those who want to work to find jobs, it should ensure that high-quality, affordable health care is available to all Americans, and it should protect our environment. Government is not the enemy of society; it should be a partner, an instrument of the people's will, and a facilitator of our public interests. But if the Government does not get its fiscal house in order—if we

don't act now to stop our runaway deficit spending—the Government will have little money left to provide for the public interest. Only the holders of the Treasury bonds will be assured of any Government assistance.

I am going to tell a story today that some in this body may have heard before. Back in 1991, when I was being urged by a number of people to run for the Senate, I sat down with my son, Matt, to discuss the issue. Matt is now 17. He was 15 at the time. As you know, Mr. President, running for office is a tremendous strain on a family; I did not want to make a decision that big without discussing it with Matt first. And, during the course of that conversation, he said something I will never forget. He said, "You know Mom, your generation is the first one that has left this world worse than you found it."

Now, as you can imagine, those words were like a knife to my heart. The thought that Matt might be right sent a chill down my spine and the notion that my generation would leave the world worse off than we found it gave me the push I needed to get involved in running for the Senate. And I am bound and determined to use my tenure in the Senate to prove Matthew wrong, to show him that his generation will have more opportunities and a better life than my generation. I want him to know that the American dream is alive and well—and that his future is a bright one. That is why I am fighting to see that the balanced budget amendment becomes part of the U.S. Constitution.

Mr. President, I was privileged to have served as a member of the President's Bipartisan Commission on Entitlement and Tax Reform—the so-called Kerrey-Danforth Commission. Some might say that serving on the Entitlements Commission was more of a curse, but I welcomed the challenge. Serving on the Commission allowed me to take a close look at our current budget trends, and at how those numbers will affect our ability to meet important priorities, like retirement security, and health care security, not just for current recipients, but for Matt's generation and beyond.

The final report of the Commission, issued last December, confirmed what most of us already know: Unless we get the deficit under control, we will be leaving our children—and our children's children—a legacy of debt that will make it impossible for them to achieve the American dream of living a better life than their parents.

I would like to take a moment to discuss those numbers. There have been and there will be a great many facts and figures talked about here in the debate on the balanced budget amendment. I know, frankly, that numbers have a tendency to make people's eyes glaze over. I want to discuss some of the numbers because they are so profoundly important to our future as a country and to the kinds of opportuni-

ties that will be available to future generations.

Most Americans, or I hope most, know that, thanks to the 1993 budget approved by this Congress, the budget submitted by President Clinton, Federal budget deficits are declining in the short term. The deficit is projected to remain under \$200 billion through 1998. That would place it at about 2.5 percent of the economy—its lowest level since the 1970's. We can and should be proud of that, Mr. President. The 1993 budget deal represented a serious attempt to attack the deficit, and our economy has benefited as a result of it.

What Americans do not know is that after 1998, unless we change course, the deficit will begin rising again rapidly, reaching \$400 billion by 2004. As early as 2012—and again when you say 2000, it sounds like a long way off, but we are only talking 5 years from now, to the turn of the century. In 2012, entitlement spending and interest on the national debt alone will consume all tax revenues collected by the Federal Government, leaving nothing at all—nothing—for defense spending, housing, Head Start, education, protection to the environment, transportation, and science research. Nothing.

What is driving this trend, Mr. President? Despite what people would like to believe, frankly, the catalyst behind our growing budget deficit is not \$600 toilet seats or Air Force generals taking \$200,000 plane rides. There is no line item in this budget labeled "fraud, waste, and abuse" that we can line out and get rid of; nor is the deficit growing due to the amount the Congress spends for the Corporation for Public Broadcasting or for food stamps or anything else that seems to consume the conversation on talk radio.

What we spend at home is actually lower now as a percentage of our economy than it was 25 years ago. If you examine a brief snapshot of the 1994 budget, this becomes clear. In 1994, the Federal budget allocated approximately \$270 billion for defense spending, \$335 billion for Social Security spending, \$155 billion for Medicare, and \$95 billion for Medicaid. All other entitlement programs combined total \$185 billion, while interest on the national debt consumed \$210 billion.

Discretionary domestic spending, which is often blamed again in popular conversation with leading the country to the brink of financial ruin, accounted for approximately \$250 billion.

Mr. President, I do not mean to imply that the \$250 billion we spent on discretionary items in 1994 is not a lot of money or that there is not room in that figure for further discipline and cutting. But we have to be honest with ourselves and with the American people. In light of the amount of money and percentage of the Federal budget we are spending on all of the programs I listed above, discretionary spending alone cannot bear the sole blame for our budget deficits. If we want to get ourselves out of the hole we have dug

ourselves into, we cannot focus exclusively, or even primarily, on discretionary spending.

So where are the problems? What drives this budget deficit? Why is it so persistent? In a nutshell, there are two major problems: The rapidly rising costs of medical care, and the changing demographics of the American population are the most important forces driving the Federal budget.

Based on current trends, Federal health care expenses will triple as a percentage of the economy by 2030. Federal health care costs, which consist primarily of Medicare and Medicaid, grew at rates exceeding 10 percent for 5 years in a row. While they are currently growing at slightly lower rates due to changes in the private sector, those rates, frankly, are still unaffordable. Due to the rapid growth, the Medicare hospital insurance trust fund will go broke by 2001.

Clearly, this is a far more serious problem than just welfare reform, which makes up 1 percent of the Federal budget. AFDC and food stamps are not growing anywhere near the rate Medicare and Medicaid are. In fact, AFDC benefits, again, have declined by more than 40 percent in real terms since 1970. That is not to suggest that we do not need to reform our welfare system; we do and we will. But anybody who suggests that the budget can be balanced by reforming welfare is being less than honest with the American people.

The Chicago Tribune recently ran an editorial on the subject of health care, underscoring the need to control health care costs if we are to get serious about the balanced budget. I would like to quote briefly from that piece.

It stated:

But if this Congress is serious about bringing the Federal budget into balance, something must be done to stem the still-rising cost of health care. Health reform isn't mentioned in the Contract With America, but unless some changes are made, several of the GOP's other goals will prove beyond reach.

Mr. President, I think the first goal will prove to be out of reach. If we do not control health care costs, we will not be able to achieve a balanced budget.

Rising health care costs are not the only problem we have to contend with. We must also confront the second leg of this dilemma, which is the "graying" of America, due both to longer life expectancy and the aging of the baby boomers.

When the Social Security system was established, the average life expectancy was 61 years old; now it is 76 years old. We cannot ignore this because the Social Security benefits are funded primarily by payroll taxes on current workers. As our population ages and as the baby boom generation retires, there will be fewer workers to support more retirees. While in 1990 there were almost five workers for each retiree, in 2030 there will be less than three. What

this means is that if current trends remain unchanged, the Social Security trust fund will begin to pay out more than it takes in by the year 2012. By 2029, the fund will have exhausted all of its previously accumulated surpluses.

Mr. President, there is simply no way to get around the fact that our present spending trends are not sustainable in the long run. In 1963, mandatory spending, which is the combination of entitlement programs and interest on the national debt, comprised 29.6 percent of the Federal budget. By 1983, that number had almost doubled, to 56.3 percent.

Ten years later, in 1993, mandatory spending was 61.4 percent of the annual budget. Let me underscore that. Today, mandatory spending—entitlements plus interest on the national debt—comprise almost two-thirds of the entire Federal budget.

What about the future? If we do not act now, by the year 2003, which is only 8 years from now—and again, these numbers sound further out than they are—mandatory spending will comprise 72 percent of the Federal budget, 58.2 percent for entitlement programs and 13.8 percent for net interest on the debt. Obviously, if we are spending 72 percent of the budget on mandatory spending, there will not be much left over for defense, education, and infrastructure.

The budget deficit also has disastrous implications for our private savings. Countries that save at higher rates grow faster and have a more rapid increase in the standard of living than countries that save at lower rates. In the United States, as our budget deficits and national debt grow, our private savings decline, we limit our investments, our productivity, and our economic growth and, therefore, our job production.

Since the 1960's, private savings have dropped from more than 8 percent of the economy to around 5 percent of the economy. At the same time, Government deficits have risen from less than 1 percent of the economy to more than 3 percent of the economy. As a result, the supply of savings available for private investment—our net national savings—has dropped from more than 8 percent of the economy in the 1960's to less than 2 percent today. This is particularly harmful for us with regard to our international competitiveness in this new global economy.

In today's increasingly global economy, our major industrial competitors are saving and investing at a much greater rate than we are. Japan's national savings from 1983 to 1992 totaled approximately 18 percent of its gross domestic product, while the European Community's savings totaled around 8 percent. If we want to stay competitive in the global marketplace, we can and we must do better; again, another reason to support the balanced budget amendment.

Mr. President, earlier, I mentioned that AFDC benefits have declined since 1970. The significance of that fact

should not be lost. We are spending ourselves into a deeper and deeper hole, and yet people who need help from Government are not better off as a result.

I live less than 2 miles from the Robert Taylor homes in Chicago, a public housing development on the south side of the city. I grew up in the shadow of that development.

Just last week, a study was released that showed that 9 of the top 10 poorest neighborhoods in the country were located in public housing in Chicago. And I know my senior Senator saw the study. It was shocking. Included in that number were three neighborhoods in the Robert Taylor Homes. That is not something to be proud of. In fact, it is disgraceful, and it is especially distressing to me, because I am third generation Chicagoan. I love the city. I know the people who live and work in those developments. I know they want the opportunity to get ahead and to have a chance to lead productive lives.

The study that I mentioned, which was based on per capita income information taken from the 1990 census, underscores why I so firmly believe that Congress must adopt this balanced budget amendment.

The people living in the Robert Taylor Homes and in the developments mentioned in that study are not better off than they were in 1969, which was the last time that this country had a balanced budget. In fact, they are worse off. They have become more isolated, and less connected to jobs and the American dream, less able to access and afford an education. They have fewer opportunities.

Perhaps if we had been able to take the \$800 million we spend each day on interest, and directed it instead to improve the lives of those residents, this situation would not seem so hopeless. But, in order to halt this downward spiral, we have to get our budget problems under control. And that is another reason I support this balanced budget amendment.

Consider another set of facts. Just yesterday, the National Center for Children in Poverty released a study showing that a quarter, fully a quarter, of American children under the age of 6 were living in poverty in 1992. Even more shocking, nearly three out of five of those children had working parents. Despite the stereotypes you hear about on the nightly news, less than one-third of the children living in poverty have families that rely entirely on public assistance. The bulk of these children have parents who work. All of our spending has not done those children, or their parents—most of whom are working, scrimping and saving and trying to get ahead—has not done them much good. Without our massive deficits, if we did not have to devote such a substantial amount of our budget to interest on the national debt, the Government could help these people find better jobs. These are people who want to work; but, because we have gotten

ourselves into such a hole with our lack of fiscal discipline, the Government cannot give them the hand that they deserve.

I have heard many opponents of the balanced budget amendment question the need to tackle the deficit immediately. America is not, they maintain, in the midst of a budgetary crisis. In the short term—the next 7 years—that is perhaps true. The country can probably continue on its current irresponsible path for a few years into the next century. But, after that, it will no longer be possible to ignore the basic demographic and health care cost trends driving the increases in Federal spending. We simply will not be able to continue on our current path, and expect the Federal Government to function as a partner of the people well into the next century. And, if we wait to act until crisis comes, any action we take will be that much more painful, and that much less effective.

Again, a quick glance at our current budget provides ample reason why we must act now, instead of waiting for the crisis to hit full blown. The entire Federal deficit for the current fiscal year—estimated at \$176 billion—represents the interest owed on the huge national debt run up during the 1980's. This year, and next year, the budget would be balanced if not for the reckless supply-side economics that caused the deficit to balloon from its 1980 level of about \$1 trillion to its current level of more than \$4.7 trillion. If we had acted in 1980 to tackle the deficit, rather than adopting approaches that merely fed its rapid growth, the problems we face today—in terms of demographics, and the aging of the baby boomers—would seem much more manageable. In 1980, interest on the debt was \$75 billion—that is a lot of money, Mr. President, but it is nowhere near the \$950 billion we currently pay. How much better off we would be if, in 1980, Congress had possessed the courage to make the difficult choices, and balance the budget. Not passing the balanced budget amendment will not make our problems go away. Our ability to meet our priorities will be much greater if we enact the balanced budget amendment now, if we tackle the tough problems now, instead of waiting until the country is on the brink of financial ruin. If we need any convincing about the need to address the deficit now, in 1995, we should just look at the consequences of our failure to address it then, in 1980.

The Entitlements Commission concluded last December without issuing any specific recommendations to Congress, to the dismay of some. Nonetheless, I believe the Commission was a real success, for outlining in painstaking detail the truth about our budget future, and the consequences of not facing it honestly. I would also add that this report was adopted by a strong bipartisan vote of 30 to 1, which is quite remarkable, when you think of the wide variety of personalities and

viewpoints that served on the Commission. What that bipartisan vote told me was that all of us, Democrat and Republican alike, know what the problems are, and know we need to act now to get them under control. If nothing else, the balanced budget amendment will help end the conspiracy of silence surrounding our Nation's fiscal problems, and ensure that we no longer have the ability to ignore the facts that are staring us in the face. Instead, it will guarantee that we face those facts, sooner rather than later.

Mr. President, given the level of public concern about our growing budget deficits, I was surprised that the Commission's final report did not receive more media attention than it did. I attribute that lack of interest to the difficulty of putting cold, hard, incomprehensible numbers into real, human terms. People hear what we are saying when we talk about the deficit being a certain percentage of the economy; that does not necessarily mean they know what the numbers actually mean.

To paraphrase Alan Greenspan, chairman of the Federal Reserve System, it is hard to get people—or the media—interested in a problem whose symptoms are hard to detect and whose full-blown effects seem to be years or decades away.

But the final report of the Kerrey-Danforth Commission should not be of interest solely to economists and policy wonks. These numbers have a real effect on us all. We need to communicate to ordinary Americans how the fiscal bottom line affects them; we have to put the sometimes incomprehensible into real, human terms.

The senior Senator from Illinois, my Senator, PAUL SIMON—to whom the country owes a great debt of gratitude for championing this issue—often refers to a study by the New York Federal Reserve Board, that looked at what the budget deficit cost America during a 10-year period from 1978 to 1988.

According to the study, during that 10-year period, our country lost 5 percentage points of growth due to the deficit. According to the Congressional Budget Office, each percentage point of growth translates into approximately 650,000 jobs. Let me repeat that—650,000 jobs. In other words, our country would have created an additional 3.75 million jobs during that period, if not for the Federal budget deficit.

Another way to make these numbers more real to ordinary Americans involves looking at what we spend in interest. Every dollar that the Federal Government spends on interest payments on the Federal debt squeezes out funds that could otherwise be used to increase the productivity of society. Currently, the Federal Government is spending \$800 million every day for interest payments on the national debt.

Think about that—\$800 million that could otherwise be used for Head Start, for housing programs, for our battle against crime and drugs, to create jobs,

or to repair our crumbling infrastructure—every day.

In total, in 1994, we spent \$203 billion to service the national debt—an amount equal to 14 percent of total Government outlays. We can not afford to waste this precious capital on financing the Government debt. We are, essentially, paying bond holders with money that could otherwise be used to help working people get ahead.

Many opponents of the balanced budget amendment argue that Government should be allowed to deficit-spend in order to continue investing in infrastructure, jobs, education, and the like. I agree that public investment is a necessary and proper Government function. But I disagree that deficit spending is the most effective way to accomplish that.

In 1966, when our deficit totaled \$3.7 billion, 2.6 percent of our budget went toward funding long-term investment. Now, with our budget deficit about to hit \$268 billion, our long-term investment has shrunk to 1.8 percent of the budget. The reason, I think, is obvious—more and more of our funds must be devoted to paying interest on the debt, leaving less and less for investment.

There are many other negative consequences, of course, of chronic Government borrowing. When households and businesses have to compete with the Federal Government to obtain loans, the increase in demand pushes interest rates up. Government takes scarce capital that would otherwise be available to the private sector for job creation, investment in infrastructure, or even savings. Deficits have a chilling effect on private initiative. To quote one of our Founding Fathers, Andrew Jackson:

Once the budget is balanced and the debts paid off, our population will be relieved from a considerable portion of its present burdens, and will find * * * additional means for the display of individual enterprise.

We would all do well to heed his words today.

Mr. President, the opponents of H.J. Resolution 1 have a great many arguments to support their view that a balanced budget amendment is unwise. I do not doubt the sincerity of their opposition, for their ranks include a number of Senators with whom I usually find myself in agreement. I greatly respect their view; however, I simply cannot agree with them. I would like to take a minute to discuss why.

I know I have taken a couple of minutes already. I would like to finish. This is such an important issue. I know the Senator from Louisiana is waiting, but I would like to make a complete statement today.

First and foremost, opponents of House Joint Resolution 1 state that we should not be tinkering around with the Constitution. Well, I could not agree with them more. The years I spent studying law at the University of Chicago gave me a deep appreciation for the Constitution. I believe the U.S. Constitution to be the finest exposition

of democratic principles ever written. I make that statement fully aware that, in its original form, the Constitution included neither African-Americans nor women in its vision of a democratic society. But it changed to better realize the promise of America. The beauty of the Constitution is that it can, through a deliberate, cumbersome, and sometimes painful process, be amended to reflect the changing realities, and meet new challenges faced by our Nation. This current problem—the problem of our growing fiscal disorder—is too important not to act on today. Who could be opposed to affirmatively stating in the Constitution that current generations must act responsibly, so that future generations will not be forced to bear the burden of their irresponsibility? What could be more important than the fiscal integrity of our Nation? As another of our Founding Fathers, Thomas Jefferson once said:

We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.

Why is that proposition not important enough to be included in the Constitution?

Mr. President, it is argued that matters of fiscal policy should not be included in the Constitution. I believe that proposition frankly ignores the fact that the Constitution deals with fiscal policy in a variety of ways. I will mention just a few of them here: Article 1, section 7, provides that all bills for raising revenue shall originate in the House of Representatives; article 1, section 8 provides that Congress shall have the power to lay and collect taxes, duties, imposts, and excises, and to pay the debts of the United States; it further provides that Congress has the power to borrow money on credit, to coin money, and to fix the standard of weights and measures. Section 8 includes the power to punish those who produce counterfeit money, to appropriate funds for the support of the Armed Forces, and to enact uniform laws on the subject of bankruptcy.

Article 1, section 9 of the Constitution provides that no money shall be drawn from the Treasury but in consequence of appropriations made by law, and mandates that a regular statement and account of receipts and expenditures of all public money shall be published from time to time. Article 1, section 10, forbids the individual States from coining money. Article 6 provided that all debts contracted before the Constitution was adopted would be valid against the United States. Clearly, fiscal measures are part of the Constitution's main text.

Fiscal issues are also mentioned in various amendments. The 16th amendment, of course, grants Congress the power to collect income taxes. The 14th amendment, in section 4, states that neither the United States nor the States may assume or pay any debt incurred in aid of insurrection or rebellion against the United States. There

are other provisions I could mention, but these are sufficient to refute the contention of opponents of the balanced budget amendment, that monetary issues should not be dealt with in the Constitution.

Nor do I accept the argument that budget deficits are a temporary problem, and will not always need to be dealt with; we should not, opponents argue, write into the Constitution an amendment that will become irrelevant and outdated once we get our current situation under control. Nothing would make me happier than to believe that our current budgetary deficits are only temporary, and are not something that future generations will have to contend with. That, however, Mr. President, is not the case. We are here today precisely because we have not previously had the discipline to voluntarily achieve the goals of House Joint Resolution 1.

Opponents of House Joint Resolution 1 also argue that there are times when the Federal Government needs to run a budget deficit. This, of course, reflects a Keynesian notion of economic policy; that in times of economic downturn, the Federal Government must act to stimulate economic activity through deficit spending. To that argument, I would simply respond that House Joint Resolution 1 does not prevent the Government from spending its way out of a recession if it chooses to do so; it merely provides that three-fifths of the Congress must affirmatively vote to do so.

But more importantly, I would say to my colleagues that there is a great deal of difference between the Federal Government stimulating economic activity by spending during a recession, and our current situation. The Federal budget has not been balanced since 1969. During the past 25 years, we have enjoyed substantial periods of economic growth—our economy has not been in a recession, it has been growing, over most of the past 25 years. But we did not balance the budget in the good years either. Our current fiscal policy reflects more than recessionary spending; it is regular, habitual, undisciplined, deficit spending—and it must stop.

Last year I had the honor of reading George Washington's "farewell address to the nation" on the floor of the Senate. This is something that one freshman Member a year gets a chance to do. Really, a singular honor. In that address, Mr. Washington left us with some words of wisdom that, I believe, support the notion of a balanced budget amendment. I would like to quote those here today:

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering, also, that timely disbursements, to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasion of expense, by my vigorous exertions, in times of peace, to discharge the

debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear.

These words, which are ceremoniously repeated each year in the Senate, underscore what the balanced budget amendment stands for: that borrowing money to pay the Government's debts, and running a budget deficit, should not be impossible, but should be an extraordinary event, done only when an overwhelming percentage of the Congress thinks it wise. While running a budget deficit may be necessary at times, it is not good fiscal policy to do so on a consistent basis. The Congressional Budget Office, the General Accounting Office, and a multitude of distinguished economists have all warned that our continued deficit spending will result in lower productivity and deteriorating living standards. It should require more than a simple 51 votes to deficit spend. The three-fifth requirement reflects that reality.

This is not, I might add, a subversion of the principle of majority rule. I do not believe in unduly restricting the ability of Congress to function. I would not have supported this amendment if it had, for instance, provided that taxes could be raised only upon a three-fifth vote of both Houses. But the three-fifth requirement to run a budget deficit really preserves the constitutional principle of no taxation without representation. By running budget deficits, we are saddling future generations, people who have no vote today, with the burden of paying for our inability to get our fiscal house in order. As it now stands, every man, woman and child now owes at least \$18,000 to pay off the Federal debt. Without action, that number will only grow. We are literally borrowing from our grandchildren to pay today's expenses. Permission to do so ought to, in my opinion, require consensus and a supermajority vote.

And it is not unprecedented. Again, there are a number of places in the Constitution that specifically provide for supermajority votes: article 1, section 3 provides for a two-third vote of Senators to convict in an impeachment proceeding; section 7 provides that a two-third vote of both Houses may override a Presidential veto; article 2, section 2, requires the Senate to approve treaties by a two-third vote; and, of course, two-third of both Houses of Congress must vote to approve a constitutional amendment—to name just a few.

Another argument against the balanced budget amendment is that Congress doesn't have to amend the Constitution to balance the budget; it merely needs to make the difficult choices needed to reach that goal. I agree. The opponents are correct on that score. But the simple fact of the matter is that, absent a constitutional amendment, Congress has not proved itself capable of making the tough choices necessary to get the Federal

budget under control. In 1986, before I came to Congress, the Senate came within one vote of passing the balanced budget amendment. At the time, the Nation was \$2 trillion in debt. Now, in 1995, that number is over \$4.7 trillion. We had, and blew, our chance to resolve the issue when it was easier to resolve. We need to act now, before the crisis hits.

Likewise, the Gramm-Rudman-Hollings provision, in theory, was supposed to balance the budget by 1991, before I even reached the Senate. Obviously, that never quite happened. So I would assert that history adequately demonstrates the fallacy of the argument that Congress will balance the budget absent a constitutional amendment.

Yet another argument offered by balanced budget amendment opponents is that the amendment will be unenforceable. I believe that elevating the balanced budget requirement to constitutional status will, in and of itself, be enough to guarantee that the provision is upheld. Every single one of us in this body has taken an oath to uphold and defend the Constitution of the United States. The American people expect, as they have every right to, that the officials to whom they entrust the Constitution will not betray that public trust.

Nor do I believe that the amendment will unduly involve the Federal judiciary in matters of fiscal policy. House Joint Resolution 1 provides that "the Congress shall enforce and implement this article by appropriate legislation * * *." In other words, Congress is directed to enact legislation to make the amendment work. That can include, if necessary, action to limit the remedies a court could grant in a case brought under the balanced budget amendment.

In addition, courts have already developed a number of doctrines which will limit the type and number of lawsuits that may be brought under the act. First and foremost, all litigants must have standing in order to bring a claim. This generally requires potential plaintiffs to show they have suffered an injury in fact, that was caused by the alleged unlawful conduct, and that is redressable by the court. Courts have been extremely reluctant, with one or two notable exceptions, to confer standing to litigants based on their general status as taxpayers.

Mr. JOHNSTON. Will the Senator yield at that point?

Ms. MOSELEY-BRAUN. Yes.

Mr. JOHNSTON. Is not that language about the Congress acting to enforce the amendment by appropriate legislation identical to the language found in section 5 of the 14th amendment, and that has not prohibited the courts from issuing literally thousands upon thousands of orders under the 14th amendment, so why would it under this amendment?

Ms. MOSELEY-BRAUN. I thank the Senator from Louisiana. He is correct.

The 14th amendment does have similar language, but I would point out also that in the first instance the distinction and the difference—I mean legislating or litigating now, but I would think, first, the issue of standing would matter. You have to show individual and direct harm to have standing in a court case brought under this amendment and certainly under the 14th amendment.

The case law has evolved differently with regard to Federal taxpayers' rights rather than someone complaining of a violation of their civil rights, for example.

In addition, the Federal courts have a longstanding practice of avoiding controversies that involve a political question. In determining what constitutes a political question, the courts will generally examine three factors: First, whether the issue in the case is one that is generally committed to other branches of government; second, the lack of judicially discoverable and manageable standards for evaluating the controversy; and third, the need for a single pronouncement on the issue. The fact that any plaintiff which brought suit under the balanced budget amendment would have to overcome these two hurdles—the doctrine of standing, which we discussed already with regard to the 14th amendment, and the political question doctrine—should be more than sufficient to limit the Federal court's involvement in matters of budgetary policy.

As a matter of legislative history perhaps, we should take up at some other time that it is very clear it is not our intention that the Federal courts be involved in budgetary policy matters upon the passing of this amendment.

I want to take one moment to discuss the right-to-know amendment, which will be offered by the distinguished minority leader, Senator DASCHLE. The Right to Know Act simply provides that Congress must give the States a list of how we propose to balance the budget before the States vote on ratification. Along with 41 of my Senate colleagues, I signed a letter to the majority leader, Senator DOLE, urging he act to ensure that the American people know what is in the Federal budget, and what it will take to bring the budget into balance—and even more importantly, to keep it in balance. It seems to me that this is nothing more than full disclosure. The Right to Know Act provides for the same thing that the entitlement commission accomplished with its interim report—a full accounting to the American people of where we are, where we need to go, and how we can get there.

There have been suggestions that adopting the Right to Know Act will kill the balanced budget amendment because the American public does not have the stomach for the tough choices we face. Frankly, I believe that argument does a real disservice to the American public. People want Congress

to level with them; they are tired of the cynical manipulations, the smoke and mirrors, that have been used to obscure our fiscal disorder in the past. The people know that getting our fiscal house in order will not be easy, and certainly will not be painless, but the long term consequences of not acting are far worse than any short-term pain. So I support that initiative, and I will vote for its adoption when it is offered on the Senate floor.

However—and I would like to make it very clear—if the Right to Know Act fails to be adopted, that will not mitigate my support for the balanced budget amendment. Opponents of the balanced budget amendment have had plenty of time to propose their version of what should be cut, and by how much, in order to balance our books. The fact is, they have not. I do not fault them for that, Mr. President, and I agree with them that the States should have as much information as possible before they decide to ratify this amendment; but Congress cannot accept any excuse for further delay on this front. The time to act is now.

Mr. President, I have every confidence that the balanced budget amendment will soon be passed by the Senate. I hope that this debate, therefore, will serve as a "call to arms" for everyone who truly cares about the future of our country to come together and begin a dialog on the tough choices ahead.

As we begin this dialog, however, it is critically important that we leave all choices on the table—nothing can be off limits if we truly want to succeed. That includes examining our tax laws; we cannot succeed unless tax reform is part of the agenda. We need to simplify the Tax Code. We need to eliminate unfair and inefficient tax breaks that are known as tax expenditures. After all, tax expenditures result in treating taxpayers with the same income differently, depending on whether or not they qualify for the expenditure. They are every bit as much a spending program as those whose funds are directly distributed by the U.S. Treasury. Again to quote from George Washington's farewell address:

*** It is essential that you should practically bear in mind, that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant ***

Fiscal honesty means we have a duty to make sure the American people can take a look at both sides of the Federal balance sheet, both the spending side and the revenue side. Building a consensus for the decisions necessary to balance the budget—and keep it balanced—means making sure the American people know what businesses and investors pay taxes and what does not, and why, just as much as it means knowing where their tax money is spent.

We cannot expect to succeed in our task if we begin by declaring individual programs or tax expenditures off lim-

its. As we move forward, we have to keep our eyes on the prize. The issue is not saving each and every individual program, but instead defining what objectives are important to us as a nation—and how we can most effectively accomplish those objectives. What is important is not which programs job training funds come from. What is important is that people who need job training assistance are able to get it, and are therefore able to get or hold the kinds of jobs that can help turn the American dream into an American reality. Likewise, we should not be concerned with who will administer housing grants. What is important is the goal—ensuring that every American has access to decent, affordable housing—and seeing that the goal can be achieved in the most efficient, productive manner. We all know that not every program administered by the Federal Government actually works it is no secret. By keeping everything on the table, we can keep our promises and keep what works, get rid of what does not, and therefore devote our scarce financial resources in a more effective, productive manner.

Finally, Mr. President, I would like to take head on the political implications of this debate, because it is an important political question for the Congress. I am not a signatory of the Contract With America. Indeed, I agree with Senator BYRD; the only contract with American that matters to me is the U.S. Constitution.

But I want to be clear that this issue is not a partisan one. It reflects philosophical differences that have little to do with party lines. The senior Senator from my State of Illinois, Senator SIMON, has been one of the chief advocates of the balanced budget amendment for years. Senator SIMON's liberal credentials are without question. He is, and has always been, a Democrat—he was at one time even a candidate for our Presidential nomination. So this is not a Republican versus Democrat debate.

Nor is this a battle of the conservatives against the liberals. I am proud to call myself a liberal, for the simple reason that I believe government has a positive and constructive role to play in promoting the public good. I do not believe government is the enemy of progress. I believe it can promote progress. In my lifetime, I have seen first hand the positive contributions a commitment to the American dream of equality and opportunity can make. I would not be here today but for the struggles of people of good will to make the American dream a reality. And it is precisely because I so value their struggles that I believe we must take the steps that a commitment to providing opportunity requires. We have a duty to use our decisionmaking power in a manner that preserves freedom and opportunity for all Americans, not only in this generation, but in generations to come.

Poor people and working people and those most in need of Government assistance are not helped by the deficits and out-of-control spending habits we cannot seem to shake. It is interesting as I listen to the debate that swirls around the issue of the balanced budget amendment and Social Security, the reason that debate is so intense is that current recipients of Social Security—and even those of us in the baby boom generation who will be in that system soon—too soon, in the not so distant future—have an absolute expectation that Social Security will provide for us in our retirement. The same can not be said for those in our younger generations. When you speak to people who are my son Matthew's age, they have absolutely no faith that Government will be there for them when they need it, that it will help them enjoy retirement security or affordable health care or a high standard of living.

And why should they, Mr. President? Since my son was born in 1977, we have never seen a balanced budget. Mat has no idea what it means to live under a Federal Government that spends within its means. His generation has heard politician after politician promise to balance the budget, yet has only seen the deficit skyrocket.

That cynicism grows deeper and deeper every day, despite pronouncements that a brighter day is just around the corner. The fact is, with current budget trends, a brighter day is not around the corner. What lies ahead, if we fail to act, is slower economic growth, greater debt, fewer options and higher taxes. Generation X's pessimism will be affirmed if we do nothing.

The time has passed for us to realize that by failing to act, we are indeed making a choice—a choice that involves throwing away most of our options for dealing with our fiscal problems. The only way we will be able to turn current budget trends around is to face reality with the help of the balanced budget amendment.

Every generation of Americans has been able to address and resolve the challenges unique to their time. That is what makes this country great. Our current fiscal challenges are daunting, but I am convinced that—with passage of the balanced budget amendment—we can save our ability to invest in people, and we can protect our capacity for humane government. Getting our fiscal house in order will give us the freedom to invest in people. That is what this country is all about. That is what this debate is all about, and I urge my colleagues to support this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Louisiana.

Mr. HATCH. Will the Senator yield for just one moment?

Mr. SIMON. Mr. President, I believe my colleague has not yielded the floor. I think my colleague from Illinois still has the floor.

The PRESIDING OFFICER. The Senator from Louisiana was recognized.

Mr. JOHNSTON. Mr. President, I did not want to cut off the Senator from Illinois. I thought she had finished her speech. Did she?

Ms. MOSELEY-BRAUN. Senator SIMON wanted to ask me a question and he had risen to ask me a question.

Mr. JOHNSTON. Mr. President, I will yield for the purpose of Senator SIMON asking a question.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I thank my colleague. First, her eloquent statement illustrates why I am proud to have her as a colleague in the U.S. Senate.

I do not know if she is aware that Data Resources, Inc., one of the major econometric think tanks just a few days ago came out with a statement saying, and this is in line with her talking about jobs, that if we balance the budget by the year 2002, we will create 2.5 million more jobs in our country. And they also say here, by 2002, half the savings in our budget simulation come from lower interest costs. They project a 2.5-percent drop in interest rates. What that would do for our economy.

Then if I may also, just while I have the floor, because she mentioned this, and knowing the concern that my colleague has for people in the Robert Taylor Homes—it is some massive housing project, I thought she might be interested.

Congressman JOE KENNEDY of Massachusetts, one of the cosponsors in the House, said in a statement a few days ago on the floor of the House: People come up to him and say listen, JOE, you are a liberal Democrat. How can you possibly be for a balanced budget amendment? Is it not going to cut the very programs that much of your family and others have stood for for generations?

And then JOE KENNEDY replies:

I say to them that those very programs that stand up for the working people, the poor and the senior citizens of this country, have suffered the worst cuts over the course of the last 15 or 20 years in this country as a result of budget deficits. Look at the housing budget, cut by 77 percent over the course of the last 15 years; look at those who have press conferences who say they want to protect fuel assistance for the poor. Look at what happened to the fuel assistance program—cut by 30 percent.

Then he goes on to a number of others and then this final line that Congressman JOE KENNEDY says:

Do we see the bellies of our poorest children filled as a result of interest payments on the national debt?

I think that is a powerful way to respond there. I really appreciate it.

If my colleagues—I am not sure who I am getting yielded from—

Ms. MOSELEY-BRAUN. I have no further comment except to say I very much appreciate the Senator's leadership in this, and the patience of my colleagues. The statement took a little longer than I expected. I did want to

make it because this is the beginning part of what is probably one of the most historic debates this Congress has seen in a very long time.

I feel honored to be a part of it. Again I thank the Senator for his leadership and I yield the floor.

Mr. SIMON. It was an excellent statement and if I could respond to the question my colleague from Louisiana asked earlier about implementation language, he mentioned the 14th amendment.

This amendment has two other things I think are of interest. No. 1, section 6 says, "Congress shall enforce—" and, No. 2, "The history of State governments."

Mr. President, 48 of the 50 States have some similar provision—not identical but somewhat similar.

There simply has not been a history of litigation in State courts. I was just looking at Colorado the other day. In the history of Colorado, there has not been a single court case on this.

I yield the floor.

Mr. JOHNSTON. Mr. President, I yield for a unanimous-consent request to the Senator from Utah.

Mr. HATCH. Can I modify that for just a bit so I can compliment the distinguished Senator from Illinois as well. I certainly want to compliment her for her strong, persuasive statement. We appreciate the leadership she has provided on this issue as well as others.

I miss her on the Judiciary Committee. I want everybody to know she played a tremendous role there. But I thank her.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, 3 weeks ago I rose on the floor of this Senate to announce I would not be running for reelection. Today I rise, with the luxury of not having to face another election to the U.S. Senate, to oppose this amendment in its present form.

I do so, first of all, because I believe this amendment violates the social contract. The social contract was a concept formed in the 18th century by French philosophers, principally Jean Jacques Rousseau, who came up with this concept which in turn inspired Thomas Jefferson and the people who wrote the Declaration of Independence and the Constitution. It was founded on the thought that there should be government by consent of the governed. A social contract where the people, understanding the issues, gave to their elected officials the right to make decisions on their behalf.

Why does this violate the social contract? Because we have here a pig in a poke in which the American public are asked, in effect, to trust us and we or the courts will later tell you what the program is. A balanced budget is not self-defining. A balanced budget can be balanced in many, many ways, some of

which are good and some of which are not so good.

Alan Greenspan, the chairman of the Fed, was before the Budget Committee just last week. I asked him about various ways that the budget could be balanced. Some, he said, would be bad for the economy. Some would be good for the economy. And the fact of the matter is, we do not know how this budget would be balanced. It could be balanced through taxes, and I wonder how many of my colleagues on the other side of the aisle would sit still for a budget balanced solely through taxes? I would guess they would all oppose it. The American people would oppose it.

I wonder how many on my side of the aisle would like a budget balanced by cuts in Social Security and Medicare; in other words, senior citizens programs. I suspect not that many. One reason it violates the social contract is that people in our country do not understand the budget and how it is made up.

On Wednesday, November 16, the New York Times printed an article which in turn reported the results of an exit poll done by Harvard University and the Kaiser Family Foundation. In this poll, people were asked, "What is the biggest program in the Federal budget?" Twenty-seven percent of the respondents said foreign aid; 19 percent said welfare. In other words, almost half of the people said that two of the really smaller programs make up the biggest part of the Federal budget. The fact of the matter is foreign aid is less than 1 percent of the budget. AFDC—otherwise called welfare—is also only little more than 1 percent of the budget.

As this article goes on to say, quoting from the article, it says:

*** the Harvard polling expert who helped conduct the survey said that unless policymakers tried to educate people on the budget we are going to have a heck of a time having a national debate on the deficit.

Here we are. There has been very little done to educate the public on what we are really talking about. The public thinks, I believe—and this poll indicates—that all you have to do is cut welfare and foreign aid and maybe waste, fraud, and abuse, and you have the problem solved. You do not have to deal with taxes, you do not have to deal with Medicare, you do not have to deal with Medicaid—all of those things.

What would the American people do when faced with the facts? Many of us are trying very hard to get those facts out to the American people. I do not believe they are going to be as enthusiastic about this amendment once those facts are trotted out. Indeed, Representative ARMEY, the majority leader in the House, said, "We cannot tell the American people about how we are going to balance this budget. Their knees would buckle." Can you imagine, Mr. President, the cynicism of saying that if we have a social contract, if we have the facts known by the American people, they would be against this matter, and therefore we cannot tell them? It is like a candidate running for office

who says, "Vote for me now, and I will tell you what my platform is later."

Is there anything more fundamental to the choices of America, to the future of America, than who pays for the balanced budget? Who pays? Mr. President, there are vast differences in who pays. Just in the last Congress this Senate went a long way toward reducing that deficit. In fact, both under the Bush and under the Clinton programs the budget deficit as a percent of the gross national product is coming down from 5 to 2.3 percent, almost half of the deficit as a percent of gross national product, which is the appropriate measure to use. The deficit has come down by that much. But what a controversial matter that was in the last Congress. In fact, not one single Republican voted for the Clinton program because it involved taxes. It is, in fact, Mr. President, a fundamental choice. And the American people ought to be involved in that fundamental choice.

How is it going to be done? How is it going to be balanced? Well, the Treasury Department was asked by the chairman of the National Governors Association to do a State-by-State breakdown making assumptions that the Contract With America would be passed and asked what the effect on each State would be.

I can tell you, Mr. President, for my State of Louisiana, it showed that we were more heavily impacted than any other State. They concluded that we would have \$2.1 billion per year in lost funding for Medicaid, \$129 million per year in lost highway trust funds, \$66 million per year in lost welfare—AFDC, that is—\$444 million per year in lost funding for education, job training, the environment, and housing and other areas, and that, "Louisiana would have to increase State taxes by 38.2 percent across the board to make up for the loss in grants."

That is what the Treasury Department concluded. They were not asked to make that judgment for my State of Louisiana but for all States. I invite all Senators to look at the State-by-State breakdown and the assumptions that were made. Some of my colleagues in the House from my State when faced with these figures said, "Oh, that is scare talk. That is scare talk. It is not to be." Mr. President, it involves assumptions, no doubt, and they may not be exactly accurate. I do not claim that they are exactly accurate. I do say that they are mathematically correct, that they assume that you are going to get to a balanced budget, and that you use today's figures about the economy.

I can tell you this, Mr. President. No one else has put out any other alternative. So if this is not correct, I say to my colleagues who criticize the Treasury study, tell us what your program is. That is why we are so anxious to find out what that program is.

I confidently predict when the word gets out there across America as to what this is going to mean, it is not

only going to not be popular, but it is going to be wildly unpopular.

I well remember the catastrophic health care debate around here where, to solve a problem, the American Association of Retired Persons, AARP, proposed a program and we adopted it in this Senate, a highly subsidized program for senior citizens and catastrophic health care under which the richest American would have to pay a maximum of \$600 a year. We passed it, I think, unanimously, or maybe there were one or two votes against it; not many. And within a year, because of the outcry across America, both Houses repealed it in record time. That was \$600. Mr. President, when senior citizens see the size of Medicare cuts that are going to be required under this, they are going to rise up as one.

Social Security is not off the table here. Social Security is right there on the table. It is right there in the cross hairs. What everyone is asking by voting for the balanced budget amendment is to say, make us do it. We really want to cut Social Security and we want to cut Medicare. Make us do it so we can blame it on somebody else, the courts or whoever.

Mr. President, we are told here today that there is some language in this amendment that prevents the courts from enforcing this amendment.

I can not find that language. Mr. President, it permits the Congress to implement this amendment by appropriate legislation, which is the same language you have in the 14th amendment. I believe that same language is in the 15th amendment as well.

Congress, as far as I can recall, never used that under the 14th amendment. It is permissive and it does not make any requirement. But we are told that there are two bases on which the Court would not get into this. First is that it was a political question. Mr. President, I think the Court has long since abandoned that political question. You remember the one-man-one-vote decision. That was, for many, many years a political question in this country. The Supreme Court refused to take jurisdiction, and they finally did take jurisdiction and ruled for one-man-one-vote. I think the proclivity of the Supreme Court to avoid political questions has long since left, and I think properly so.

Second, we are told there would be no standing to sue under this. If that is the intent of Congress, it is very easy to deprive anyone from access to the Court. But that is not the intent here, Mr. President. It is very plain. It is a constitutional amendment. There is a Federal statute giving jurisdiction to courts to raise constitutional questions. And surely somebody has a right to raise a constitutional question. We have that under the 14th amendment. Why would you not have it under this? And if there is no access to the Court, who is to enforce? If what we are after is some requirement from some outside force to make us do what we would

otherwise not do, if the Court cannot do it, then who can? Then where is the compulsion? Then what is the point?

We can do this right now, Mr. President. If this amendment does not mean that the courts have jurisdiction to enforce it, it does not mean anything more than the present law says, because the law now says you must have a balanced budget.

Mr. President, I believe that this also violates the principle of majority rule. By requiring 60 votes to have an unbalanced budget, you give enormous power to the minority. This is an old ploy, Mr. President. We have it in our State, where in order to raise taxes you must have, I believe, a two-thirds vote. And what happens when you have to have taxes? That one-third of holdouts have a shopping list which is always long, usually very expensive and, in the end, they finally get the votes because they have to have the revenues. But in the end, it amounts to bad policy. Not only does it violate the principle of majority rule, but it calls for making deals with the holdouts.

Mr. President, if we get into the shape where you have to do it, where you have to have the 60 votes and everybody recognizes it, you will be able to get it done, but probably at great cost to the taxpayer, both in money and in bad policy.

Mr. President, if, as I contend, the courts very plainly have jurisdiction here to order up a balanced budget, then how are they going to do it? The occupant of the chair is a lawyer of some distinction, and I know he has dealt with constitutional questions before. I believe what the Court would do is to order an income tax surcharge and say the Congress has *X* amount of time within which to come up with an alternative to balance the budget; otherwise, the surcharge will go into effect. Why do I believe that? Because the Court does not have access to the huge amount of staff it would take to determine the effect of budget cuts. It takes tremendous sophistication, computer models, and knowledge, to know what the spend-out rates of various cuts would be, how they impact upon the public in general, and how they impact upon the budget.

I do not believe the Court is going to get in there and say, well, we need to cut the National Park Service by 5 percent; we are going to exempt the IRS because we need those people; we are going to cut Medicare by *X* percent. One thing we found out about health care, this huge, growing part of the budget, is how complicated it is. The Court is not going to deal with those kinds of cuts. Do you think the Court is going to get in and say we need to cancel the remaining part of the B-2 bomber program, and we are going to allow the F-16 to go forward, and we are going to have one less division, and we are going to close this many bases? They are not going to do that, Mr. President. They do not know how to do

that. If they took 2 years within which to make a decision, they could never come up with that judgment.

So what are they really going to do? If they conclude, as I believe they would, that you cannot get the 60 votes and that you have violated the balanced budget, the simple thing is an income tax surcharge. You do not have to know about the income tax program. You do not have to be an expert on that. You simply say a surcharge. All of the rules that are in effect right now, you let them go on, and you put a surcharge equal to the amount of that deficit. It may be a huge one; it may be a punishing kind of thing. But they would then lob the ball right back into the Congress.

I sincerely believe, Mr. President, that is what the Court would do. I have thought about this thing a lot. That is what I would do if I were on the Court, because there is no other alternative. If you say the Court is not going to get involved in it, again, Mr. President, what is the point? If the Court is not going to enforce it, then it is up to the Congress—well, it is up to the Congress right now. So what does this add? I say to those who would argue with me that the Court has no jurisdiction; why do you not put that in the amendment? I can give you the language for it off the top of my head within about 10 words: No court shall have jurisdiction to order the budget to be balanced.

That is all we have to say if that is what we mean. And if it is so fundamental, why do we not say it? Because that is not what it means? Of course, it means that the Court can enforce it. If we do not know the answer to that fundamental question, then I say this is the most ambiguous constitutional amendment, perhaps, we have ever had, and there has been a lot of ambiguity. This particular ambiguity would be very easy to clear up if in fact it is ambiguous, and I believe it is.

Mr. President, virtually everyone is for the balanced budget, but there are vast differences in how to do it, and there are also vast differences in the timing of when it is done.

All economists—a conservative economist, a liberal economist, and all the rest—will agree on one thing, and that is that you ought to take bigger bites out of the deficit when times are good and lesser bites out of the deficit when times are bad. In other words, as the Federal Reserve Board is meeting today and tomorrow, talking about raising interest rates, why are they talking about raising interest rates and why have they raised them over these last few months? Very simple. Because they believe the economy is overheating. They point out that unemployment rates are at not historic lows, but very low rates. They are worried that that low unemployment will spur inflation in wages and in commodity prices. So the rumor is that they are going to raise interest rates and

other half, maybe three-quarters of a point.

This would be a good time to take some big bites, therefore, out of the deficit. When you get into a recession, Mr. President, it is not the time to take big bites out of the deficit. And everybody, virtually all economists, agree on that. But this amendment puts you irrevocably, indelibly, inexorably on this glidepath—some would call it a crash path—to a balanced budget, without knowing how in the world we are going to do it.

And it may be, Mr. President, that you will have maybe 50 Senators who want to raise taxes, maybe 50 Senators who want to cut Medicare, maybe 40 Senators who want to cut Social Security. You may not be able to agree, and you lateral that ball right over to the Supreme Court, who will decide it for us in the way that I believe they would, which is with an income tax surcharge.

Mr. President, the Congress can, in fact, balance the budget right now or put us on the glidepath. We can do it under Gramm-Rudman and set forth a spending glidepath that is enforceable, that calls for sequestration if we violate it, that calls for 60-vote points of order if we violate that. That is really all we have to do. I mean, that is an elaborate procedure which, once agreed upon, is much more clear, much less ambiguous than a constitutional amendment would be, because you know exactly how it is to be enforced; to be enforced by sequestration, which exempts certain programs, and does not exempt other programs. And it is self-enforcing. The whole mechanism is enforcing.

Now, why would we not do that? Well, it may be, Mr. President, because, as Mr. ARMEY says, the public's knees would buckle if they knew the truth—the public's knees would buckle if they knew the truth. What an incredible statement for this Congress to make; that if the public knew how we were going to do this thing, they would not like it and they would not be for it.

What happened to that old axiom of government with the consent of the governed? Oh, we are told that the Congress has not done anything. Mr. President, where have my colleagues been these last 2 or 3 years, when we brought the deficit down from 5 percent to 2.3 percent of gross national product? Did we think we achieved that without any pain or any disagreement here?

Mr. President, we achieved a lot in terms of reducing that deficit. It can be done. It is hard to do, of course. But it can be done. And the American people were involved in that. Maybe they did not like the way it was done. I did not like the way it was done. I had a different idea about how it should be done. But the majority ruled and it was done, and it can be done now without this constitutional amendment.

Mr. President, we all know that the deficit is coming down but that forecasts show that, in the future, the deficit is due to go up rapidly again because of the projected increases in medical programs, particularly Medicare and Medicaid.

That means that we in the Congress are going to have to take rather heroic steps in order just to stay even with the board; in other words, to keep the deficit from going up, much less balancing the budget, we are going to have to take rather heroic steps.

Now, how difficult will those steps be? I do not know, Mr. President. I suspect they will be rather difficult.

But I can tell you this: that those steps, combined with an automatic deficit reduction down to a zero constitutional amendment, which cannot be avoided except by supermajorities, at least if we go into a recession or slowdown, might make it virtually impossible for us to act. In other words, we do not know what we are in for in terms of the coping with this Medicare problem. We just do not know.

The difficulties we had in the last Congress in trying to figure out how to deal with the medical crisis in this country and how to project costs and how to project savings from certain steps and certain legislation were terribly difficult. No one could ever agree. Some said it was going to cost more; some said it was going to cost less.

But we are going to have to not only do that to conquer that question of turning around the increase in Medicare spending, but we are going to have to balance the budget at the same time, no matter what.

That is why, Mr. President, taking out the flexibility that this Congress ordinarily has to act by majority vote is a very, very bad idea. The timing is simply bad. The political timing is good.

You know, the American people have finally woke up to the balanced budget issue. They seemed to be unaware of it during the 1980's when the debt was going from a little over \$900 billion to almost \$4 trillion at the start of this administration. They seemed to be relatively unaware of it at that time. Now they have become aware, since it has come down from 5 percent of GNP down to 3.2 percent of GNP by the end of this year; now they are aware of it.

It does not mean that it is not still a problem. But it does mean to say that political polls, as to who is for and who is against a balanced budget, are ephemeral gauges that go up and down and do not take into account that the American people do not yet know how it is going to be done.

Mr. President, we ought to involve the American people in this biggest of all social contracts. We have heard this term "Contract With America." It was an ingenious political device. I stand in admiration of it. Some parts of it I support. But it was an ingenious political device which conjured up the idea that the Congress and the American public

ought to have an agenda, that they ought to vote on that agenda by electing their representatives, vote for what they get and get what they vote for. And that was brilliant.

Mr. President, this is a bigger contract with America than that which is contained in the so-called Contract With America, because it involves the future of everyone. It is a question of who pays. It can be done by means testing and maybe that ought to be the way we ought to do it.

Maybe we ought to say that everybody who makes over X dollars has to pay twice as much for their Medicare. Maybe we ought to say if you make over \$50,000 a year, you do not get Social Security, whatever the formula is. Means testing is clearly one of those ways to do it. It has been discussed a lot.

I wonder how many people out there in America, how many senior citizens, have thought about how much means testing has to be done. And remember catastrophic health care and the reaction to that. Or it could mean taxes. And we know how the American public feels about taxes. Or defense. You know, the American public says, "Gosh, we need a strong national defense." Or we could eliminate some of these programs.

But I suspect, Mr. President, that the American public is in for a rude awakening when they find out how little money you can get out of the welfare program. I think we ought to have welfare reform. But virtually everything that is talked about with welfare reform costs more money.

Orphanages? Mr. President, what do you think orphanages would cost? Right now, you know, the babies stay at home with mama and you give mama a check. But if you had to build the orphanage, acquire the property and build the orphanage, get the staff to operate the orphanage, and not only do that but take care 24 hours a day of these kids in loco parentis, as we say, the cost of that, Mr. President, would be—maybe it would not be as expensive as Boys Town; I understand Boys Town costs \$70,000 or \$80,000 a year. They have a lot of special counseling there. But if we have just the garden variety orphanage, it will cost a lot more than welfare does. Job training, I am for it. But anybody who thinks we can have job training and then have day care for the mothers—and we are going to be a lot cheaper on that than the present welfare program—has not taken out the calculator to figure this thing out. There is not a lot to be saved in welfare. We need to reform it, but there is not a lot to be saved. There is certainly not a lot to be saved in foreign aid.

I want to see my colleagues who are for cutting aid to some of our great friends out there—I am not—countries like Israel, which are so strong in promoting the American interests all throughout the Middle East. I am not for cutting that program. It is less than 1 percent of the budget.

Mr. President, in conclusion, and I apologize for speaking so long, but it is an important issue. This is an issue where we need a Contract With America. This is an issue where we need a social contract. We need a major debate where the American public is told about how this will be done, at least what is the approach; maybe not how every dollar over a period of 7 years is going to be cut in every single program, but how is it going to be done in approach. Is it going to be a means testing approach? If so, what is that going to mean to those senior citizens out there?

Is it going to be cuts in Medicare? For example, copayments? And how big would those copayments have to be? How much do we pay each time we go to a doctor? Should senior citizens not know that? Should they not know that, Mr. President? What will happen if they wake up—all the Senators have voted for the balanced budget amendment, and then I can see them. It will be just like in catastrophic health care. They will call up and say, "We did not know that that is what was meant. We did not know, Senator, that is what you had it mind." I remember those calls on catastrophic health care.

Now, I think the American public ought to be entitled to know what we are going to do, to know what the plan is and involve them in the debate. We do not have to rush into this thing. It is one of the most important debates we have ever had. Involve them in that debate. Tell them at least the broad outlines of what we will do, what will it cost Mr. or Mrs. or Ms. Senior Citizen. Do you know what I really believe? I really believe the senior citizens are right in the cross hairs. They are in the scope. They are in the sights. And get ready, senior, because you will have to pay for this thing. To a very large extent, it is our senior citizens who will pay for the balanced budget amendment.

Medicare is going to be No. 1. Mr. President, we made cuts in Medicare in the past. They have not really hurt. Right now the Government pays about 70 percent of the doctor's bill or the hospital bill on the average on Medicare. But those doctors and the hospitals had accepted that 70 percent. What do they do? They pass it on to the other people. "Cost-shifting" it is called. Passed on. Passed on to those who have insurance and to those who can pay. Everybody knows that that is so.

There are, however, limits to that cost shifting, I suspect, and I am told by experts that we are right at the limit on cost shifting. In other words, we start cutting Medicare just on these block cuts more than we have now, and we will have doctors who will refuse to treat, hospitals who will refuse to accept patients, and we are going to have to make the changes in Medicare. Copayments, increases in premiums, or rationing of medical care, or other means.

In fact, the Speaker of the House just yesterday said we need a fundamental reexamination of Medicare. What did he mean? What did he mean, Mr. President? We do not know. But I think Medicare is important enough to the American people that we should be told that fundamental thing before we go in and adopt a balanced budget amendment which may require that fundamental restructuring of Medicare in such a way that the seniors are going to have to pay for this balanced budget amendment.

We are not talking about small decreases in expenditures. We are talking about \$1.5 trillion between now and the year 2002. We are talking about cuts so huge that it would require a fundamental restructuring in Medicare, probably a fundamental restructuring in Social Security if those things are on the table. What else is there? What else is there?

Mr. President, I oppose this balanced budget amendment, certainly in the form that it is now. It is a ticket to the Supreme Court with an order for an income tax surcharge. It is an invitation for the senior citizens of this country to pay for it with huge, massive cuts in Medicare, probably Social Security. My State of Louisiana—according to the Treasury Department, is going to be impacted more than anybody. They say it would require a tax increase of 38.2 percent across the board. How many people in my State, if this is true, would be for this 38.2-percent tax increase?

Maybe that is not so. Well, if they did not make the right assumptions, tell Members what the assumptions are. Tell Members what those assumptions are. Then, if I know how it will be done and we sort of have that debate out there with our people, I could well be for it, because everyone, including me, is certainly for the balanced budget in concept. But not this way. Not "vote for me now" and I will tell you what the platform is later. Not putting at risk the fundamental future of senior citizens in these fundamental programs that we have in this country. It is the wrong way to do it, Mr. President.

I hope as this debate proceeds we will get some of these answers. How are we going to do it? Does the court have jurisdiction? Does anybody have standing? Just what is the plan? That is what we need in order to have a contract with America and to have a social contract with the people of this country.

I yield the floor.

Mr. SIMON. Mr. President, I just want to take 5 minutes to respond briefly to my colleague from Louisiana, for whom I have great respect. As a matter of fact, I have cited Senator JOHNSTON as an example of why term limits are a mistake, even though he has decided that he is going to leave this body.

Just very briefly. On the question of the courts imposing taxes, there has

only been one example of that in our history and that is the Jenkins case in Kansas City. That was because Congress was silent. On this, we say Congress shall implement, and we will spell that out. We will make clear this is not the jurisdiction of the courts.

Mr. JOHNSTON. Would the Senator yield at that point?

Mr. SIMON. Mr. President, I yield.

Mr. JOHNSTON. Under the 14th amendment, courts run prisons, courts run schools, courts have even required taxes. What was the name of the case where the courts required taxes to equalize taxes between school districts in a State? They do that all the time. Section 5 of the 14th amendment says that the Congress may implement this amendment by appropriate legislation. Same language as we have here. What is the difference?

Mr. SIMON. Mr. President, I think there are two differences. No 1, section 6, first of all, spells out "Congress shall enforce." Congress shall enforce, not the courts shall enforce.

Second, when we talk about equity—

Mr. JOHNSTON. Does it say the courts may not enforce?

Mr. SIMON. No. We say Congress shall enforce and Congress shall implement. But we have not in terms of equity. In terms of taxation, the courts may get into a school case.

There is only one case where the courts have imposed taxes on people, as far as I know, in the history of our country and that is the Jenkins case. In the Jenkins case the law is silent. They moved into an area where there was no law. Here we are going to, I assume—and Senator HATCH and I certainly are in agreement on this, and I am sure Senator JOHNSTON would be—make clear, very explicitly, this is our jurisdiction. And in terms of enforcement, because that is the problem, then, when we say we cannot increase the debt limit without a 60-percent vote, that is very tough enforcement, as Attorney General Barr testified.

Mr. JOHNSTON. May I ask my dear friend. Section 6 says, Congress shall enforce and implement this by appropriate legislation. It does not say the courts lack jurisdiction to enforce the amendment. Every other amendment of the Constitution, my friend would agree, can be enforced by the courts, can they not?

Mr. SIMON. Yes. And we do not prohibit any kind of court involvement. But, the history of this in States that have these kind of provisions is that there have rarely been any court cases. That is the history of it.

That is the history of it. The Senator and I took one oath when we stood down there, as the Presiding Officer did just a few weeks ago, to uphold and defend the Constitution. I do not think we are going to take that lightly.

Mr. JOHNSTON. My friend would agree that the courts are not prohibited from enforcing this amendment, and that in every other amendment the

Court has jurisdiction to enforce, and they do get involved in every other amendment, do they not?

Mr. SIMON. If the Senate should say the heck with the Constitution, we are not going to pay any attention to this—and I cannot conceive of our doing that—then it is possible in some way the courts will get involved. But it is interesting in that last time, if I may just finish here, we had one of our colleagues who attacked us on the same basis, and then very reluctantly—and I think I speak for Senator HATCH on this, too—we accepted the Danforth amendment which was more precise on this about the courts not being involved, and then the same Senator got up and said I have a constitutional amendment that is meaningless. If my colleague from Louisiana will assure me that he will vote for the amendment if he gets those words in there that he would like, I am willing to take a look at it.

Mr. JOHNSTON. Let me ask, because it is at least as fundamental a question as there is here, do we agree, if I may get involved with the distinguished floor manager—

Mr. SIMON. Sure. I yield time to my colleague from Utah also.

Mr. JOHNSTON. The courts would have jurisdiction to enforce the amendment?

Mr. HATCH. I do not think they do. As a matter of fact, I cannot see any way that the courts would find standing or justiciability, and I think they will invoke the political question doctrine, especially since we say Congress has the obligation and the right and power to enforce it.

Mr. JOHNSTON. Is that the clear intent of the authors, that the courts may not enforce it?

Mr. HATCH. Clear intent.

Mr. JOHNSTON. Why do you not say so? It is very easy, very sparing words.

Mr. HATCH. We do not because it is a true constitutional amendment and, frankly, there are those on the other side who I think will argue that the courts ought to have some control. We just want to avoid that particular argument.

Mr. JOHNSTON. Would not my friend agree—

Mr. HATCH. Some say no matter what you do the courts do not have control but they ought to. The majority say, well, we do not want the courts to have any control or have any interest in this and then we wind up, we wind up on both sides of the issue. Frankly, what we did is—

Mr. JOHNSTON. Would not my friend agree with me that this is at least ambiguous—

Mr. HATCH. I do not think it is. I do not think it is when you—

Mr. JOHNSTON. Political doctrine? The Senator remembers the one-man-one-vote case, Baker versus Carr?

Mr. HATCH. Sure.

Mr. JOHNSTON. For many, many years one-man-one vote was considered by the Court to be a political question.

And the Supreme Court in *Baker versus Carr* changed that judgment and said it is no longer political; we are going to order one-man-one-vote.

Now, what is there inherent in this that makes it a political question?

Mr. SIMON. If I may respond, on the one man-one-vote case, which grew out of the State of Tennessee, there was no explicit jurisdiction claimed solely by the legislative bodies. And here we are going to claim that we have the jurisdiction.

If I may respond just to a few other points that my friend from Louisiana made, he said—and a lot of my colleagues will disagree with what I have to say here, probably including my good friend from Utah. The Senator said, "This is a good time to take good bites out of the deficit"—I wrote down the Senator's words—talking about the Federal Reserve Board. But the reality is we are competing with each other trying to get a tax cut right now.

Mr. JOHNSTON. The Senator is not competing with me. I think that is terrible policy, and I know my President is for it and I know Contract With America is for it. But it is absolutely the wrong time to be doing that.

Mr. SIMON. I could not agree more with my friend from Louisiana, and if we had a constitutional amendment requiring a balanced budget, we would not be talking about it here. That is one of the realities.

Mr. JOHNSTON. In the Contract With America, it has both a tax cut and a constitutional amendment to balance the budget.

Mr. SIMON. If the Senator is expecting me to defend the Contract With America, I am not about to do that.

Mr. JOHNSTON. No, but the Senator said we would not be talking about it, and they are talking about it and they are in control.

Mr. SIMON. But my friend from Louisiana has just illustrated why we need the balanced budget amendment. It is absolutely ridiculous to be talking about a tax cut when we have these huge deficits. But we can do that because it is popular, and so we are going to go out and we will go back home and make speeches how we cut taxes—absolutely nutty to be doing that right now. And so I think the Senator has made the point.

When the Senator said we can do it on our own, that is the same speech we heard here in 1986 when it lost by one vote in the Senate. The total Federal debt then was \$2 trillion. Now it is \$4.7 trillion. And if we make the mistake of turning it down again, if we have a chance before we have economic chaos, it will be \$9 trillion and we will have hurt the economy much, much more.

In terms of the Social Security trust fund, the Senator said the seniors are in the cross hairs—every group is being told. And those figures the Senator got from Treasury, they are about as inaccurate as any figures that I can imagine.

Mr. JOHNSTON. Where are they wrong? I hope they are wrong. Where are they wrong?

Mr. SIMON. They are wrong. And I think, I might add, in the course of this debate the Senator will have plenty of examples of why they are wrong, and I am going to be one who will spell it out.

Mr. JOHNSTON. Is it the mathematics or is it the assumptions?

Mr. SIMON. Yes. And I will spell that out. But let me just say the Senator mentioned seniors are in the cross hairs on Social Security. Bob Myers, the chief actuary for the Social Security system for 21 years, said it is absolutely essential for the Social Security trust fund to pass this. Without this, we are headed toward monetizing the debt. And as you look at the history of nations, I think that is very, very clear.

Then, finally, the Senator mentioned about responding on recessions. I would say there are two arguments here. One is used by Fred Bergsten, you probably remember, former Assistant Secretary of the Treasury, who says we are really strapped; we cannot respond to recessions as we should now. What we ought to do is have a 1- or 2-percent surplus and then give the President the authority to initiate programs immediately in areas where you have unemployment above X percent.

I think that is a very valid argument. But the National Bureau of Economic Research at Cambridge has issued a study by two University of California economists who come to this conclusion.

Discretionary fiscal policy does not appear to have had an important role in generating recoveries. Fiscal responses to economic downturns have generally not occurred until real activity was approximately at its trough.

Mr. JOHNSTON. Is he one of those who disagreed that the New Deal helped bring us out of the Depression?

Mr. SIMON. All I know is the economists are from the University of California.

Mr. JOHNSTON. There are some people who believe in the flat Earth, too.

Mr. SIMON. I would add one other point, and I think most economists are in agreement on this point here that they make. At least I have had a lot of reading on that. But the other point is where we have extended unemployment compensation—and I have been looking at this—when we have had recessions, in every case but one, in 1982, we have had way more than the 60 votes that this constitutional amendment would require.

Anyway, I thank my colleague from Louisiana for his discussion. Obviously, we do slightly disagree on this constitutional amendment.

I yield the floor.

Mr. HATCH. If the Senator will yield?

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Utah.

Mr. HATCH. We in our report make it very clear. We say:

The committee believes that S. J. Res. 1 strikes the right balance in terms of judicial review. By remaining silent about judicial review in the amendment itself, its authors have refused to establish congressional sanction for the Federal courts to involve themselves in fundamental macroeconomic and budgetary questions, while not undermining their equally fundamental obligation to "say what the law is . . ." The committee agrees with former Attorney General William P. Barr who stated that there is . . .

And then he went on to make it clear the courts will not.

Mr. JOHNSTON. If I may ask, is the Senator saying the Supreme Court is going to follow this judicial history?

Mr. HATCH. Maybe Justice Scalia will not but the other Justices will. And I think even Justice Scalia will because he will consider the law as it exists. Because, you know, the courts can only enforce constitutional amendments—really only where there is "standing." That is—

Mr. JOHNSTON. Who decides whether there is standing?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Let me define it. I believe my colleague has the floor but I am trying to respond to him. That is the "case in controversy" requirement of Article 3, which requires litigants to show harm. No one can show harm under Section 6 of this amendment. Since *Frothingham versus Mellon*, that was in the 1920's, the Court held that in order to have standing, a litigant must show particularized harm in budget and tax structures.

The case that the Senator is referring to, the one man one vote case, is *Reynolds versus Sims*. In that case, in the one man one vote case, the Court believed that in that case, in that particular case, the litigant could show particularized harm so the Court did finally decide it on that basis.

Now, the difference between that and here, is that there the Court was working on a fundamental right to vote, a fundamental right to have your vote weighed, a fundamental right to have your vote count. And you go right down the line on the fundamental right to vote.

Mr. JOHNSTON. If the Senator will yield now—

Mr. HATCH. If I could just add one more sentence. I just want to get this all out in one or two or three paragraphs.

As an example of a constitutional situation where standing will not lie, litigants literally cannot sue or complain about the President's control over foreign policy. They just cannot. So I wanted to get that one point out.

But, yes, the Court will pay attention to this. Yes, the Court will pay attention to section 6 of this amendment. And, yes, it is almost—I do not see any way that you could show standing and show that kind of particularized harm that you could show in *Reynolds versus Sims*. It was not hard for the Court to

make that transition and decide Reynolds versus Sims the way it did. Some may disagree with the decision. Some may say that, yes—as the Senator did—for a fairly long period of time they treated the whole issue as a political question. But there is a far greater difference between deciding a fundamental right like the right to vote and enforcing a constitutional amendment that makes it very clear that Congress has the power to enforce and to take care of the details of the amendment itself.

Now, what is important here, in my opinion, is that—I value my friend from Louisiana. He knows it. We have been friends for the whole time I have been here. I have respected the work that he has done in the Senate. I hate to see him leave. And I think the Senate will be not as good a place once he does leave.

But I hope the Senator will continue to discuss this with us, if not on the floor at least off the floor. Because I am interested in satisfying people around here. Our problem is, as everybody knows, that we have 535 Members here. If he and I could sit down and write this amendment it might be a little bit different. In fact, he did participate in helping to get us to this point on the amendment. If the Senator from Idaho and I sat down and wrote it, it might be a little bit different. The fact of the matter is, a bunch of us have sat down over a 12-year period and have written this and it is the best consensus amendment, best bipartisan amendment we can do that might possibly cause us to start being serious about some of the deficiencies of Government, which I think the distinguished Senator from Louisiana has outlined quite well.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, my friend has outlined the emerging state of the law on the question of standing to sue. The issue of standing to sue goes all across the law and provokes about as many decisions as any area of the law that I know about.

Suffice it to say it is emerging, dynamic, and changeable. And—as is the question of a political question.

In Reynolds versus Sims, and Baker versus Carr, formerly political questions, they changed on that issue. There they were enforcing the 14th amendment, which said nothing about voting rights and which traditionally had been left to the States. So this was a change.

This amendment specifically deals with a question of unbalanced budgets. My friend says no taxpayer is particularly harmed by this. You should have heard the eloquent speech—as maybe he did—of my colleague from Illinois, who talked about her child and future deficits. You would think, to hear that, it is the most fundamental issue for our progeny and our families that there is. And I believe the Court would find that standing to sue.

What I find to be objectionable, among other things, I say to my friend, is this is deliberately ambiguous. It is deliberately ambiguous because there are those Senators who say the Court has to have the final club in the closet otherwise this does not mean anything. And there are others who say we do not want to get the Court mixed up in this because we do not want the Court to order taxes. So we leave it deliberately vague, ambiguous, to be decided by some future Supreme Court.

I believe that is the height of irresponsibility. It is not a difficult task from the standpoint of statutory draftsmanship. We could literally draft it here within 5 minutes on the floor of the Senate. I would say “No court shall have jurisdiction to enforce this amendment.”

That is simple, straightforward and unambiguous. If that is what we mean it ought to be said. It is not one of those difficult things to define like “outlays and expenditures and receipts.” That is what I read from section 6 here, is that the Congress shall enforce and may—what does it say—may define outlays and receipts? What does it say? “Estimates of outlays and receipts,” define those. That is because they are not self-defining.

But a jurisdiction of a court is fundamental and it is the Congress who needs to make that choice. Is it an enforceable amendment or not an enforceable amendment?

How can we be debating something as fundamental as a balanced budget amendment and not know whether the Court can enforce it or not? How could we do that? That boggles the mind. That is the question. Can they enforce and how can they enforce? That is the question. We do not answer it.

Mr. HATCH. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I believe, if my colleague looks at facts, he looks at the law, he looks at the Court, there is really no question that the courts cannot enforce this.

Will there be—

Mr. JOHNSTON addressed the Chair.

Mr. HATCH. Let me just finish, if I can. The Senator seems to be making an argument that there is a mere possibility. I suspect we have to agree, there may be a mere possibility argument here.

Mr. JOHNSTON. I think it is probable. I think it is clear.

Mr. HATCH. The standing and political question doctrines are longstanding doctrines—

Mr. JOHNSTON. Every other amendment is enforceable.

Mr. HATCH. Not really. They are unlikely to change. In the case of Reynolds versus Sims, most people believe the Court made the right decision there. I do not know of any constitutional scholar—there may be some—but I do not know of any major constitutional scholar who would think the Court made the right decision if it

interferes with this, nor do I know anybody on the Court who feels that way.

Mr. JOHNSTON. Why do you not say it? I do not believe—

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I do not believe that judgment is clear at all. I think it is probable that the Court can enforce this—probable.

Reasonable minds can disagree. But why leave it deliberately vague, deliberately ambiguous?

Mr. HATCH. We do not think it is ambiguous.

Mr. JOHNSTON. I will tell you why it is left deliberately vague. Because there are some who are for it and some who are not for it and they want to leave it up in limbo.

Mr. President, this is a Constitution we are amending. Why can we not say what it means?

Mr. HATCH. Did the Senator address a question to me?

Mr. JOHNSTON. I will close with this because I have taken too long.

My point is that it is a Constitution we are amending. It can be clarified simply and clearly as to whether the Court can enforce. It is the most fundamental question, and we ought to decide here on the floor of the Senate.

Mr. HATCH. Mr. President, I am concerned about the Senator's feelings. I do not see a way in the world that the Court is going to find standing here, or even justiciability, let alone interpret the political question doctrine any other way than it has through all of the century, two centuries, of existence. To be honest, I just do not see how that is going to be.

So we are interested in continuing dialog, and I will be interested in chatting with my friend and seeing just what he feels on this even further. But to make a long story short, again this is a bipartisan consensus amendment.

Is it perfect? No. But it is as close to perfect as we can make it, and have a two-thirds majority in each body willing to vote for it.

The Bill of Rights does not. None of them provide for judicial review. They certainly do not do it explicitly. We will put it this way. Only where one shows standing can one litigate. In the first amendment cases, for instance, one cannot sue to protect the right of third parties. These are tough areas of the law. I think the Senator did well to raise this issue. It has been raised in every debate I have ever had on this. But I just do not see constitutional experts on his side of the question.

We will certainly discuss it with him and continue this dialog because we do want to get a balanced budget constitutional amendment passed, if we can.

Let me put into the RECORD at this point some answers to the arguments of the distinguished Senator from Louisiana on the standing, on the justiciability, and on the political question doctrine.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BALANCED BUDGET AMENDMENT JUDICIAL ENFORCEMENT ISSUES

Opponents argue that enforcement of the BBA will result in undue interference by the Federal Judiciary in the budget process.

Response. Opponents are incorrect. Certainly the better view is that enforcement suits would be dismissed on (1) standing, (2) justiciability, and (3) political question grounds.

1. Standing: The latest Supreme Court pronouncement on the standing doctrine is contained in *Lujan v. Defenders of Wildlife*, 112 S.Ct. 2130 (1992). There, the Court made clear that standing is a constitutionally mandated Article III prerequisite for commencing a federal action and has three elements: (1) the plaintiff must have suffered an "injury in fact" which is concrete, particularized, actual and imminent and not hypothetical, (2) there must be a causal connection between the injury and conduct complained of—e.g., the injury must result from the actions of the complained of party and not a third party, and (3) it must be likely, as opposed to speculative, that the injury is "redressable" by a favorable court decision.

Turning to the three-part test, it is doubtful that a plaintiff could demonstrate the "injury in fact" prong because it is well settled that a mere interest in the constitutionality of a law or executive action is noncognizable.

Moreover, it is doubtful that a litigant could prove that the challenged law is the provision that "unbalanced the budget." In fact, such an allegation would be a "generalized grievance" which the Court has found noncognizable. *E.g., Frothingham v. Mellon*, 262 U.S. 447 (1923).

As, to the third prong, "redressability", this prong subsumes justiciability and the political question doctrine, which I will discuss in a moment. Suffice it to say that as to this prong it is doubtful that a judicial remedy exists which would not violate the separation of powers doctrine.

The question of standing, of course, involves both taxpayers and members of Congress. With regard to Taxpayer Standing specifically, the Court, in *Flast v. Cohen*, 392 U.S. 83 (1968), announced a liberalized standing test for taxpayers. Under this "double nexus" test, taxpayer standing requires that the taxpayer-plaintiff (1) challenge the unconstitutionality of the law under the Taxing and Spending Clause of the Constitution, and (2) demonstrate that the challenged enactment exceeds specific limitations contained in the Constitution. Professor Tribe had testified that some taxpayers' suits to enforce the BBA would satisfy this test because the proposed Amendment would be a specific constitutional limitation on congressional taxing and spending power. There are two counters to this argument: (1) the Supreme Court has in application severely restricted the *Flast* doctrine; indeed, the Court seems to limit *Flast* to Establishment Clause situations. See *Valley Forge Christian College v. Americans United for Separation of Church & State*, 454 U.S. 464 (1982), and (2) the *Flast* test is not a substitute for the *Lujan* test; meeting the *Flast* test only establishes the "harmed in fact" first prong of *Lujan* and that the "redressability" prong cannot be met by taxpayer-plaintiffs. This conclusion is supported by the *Lujan* decision itself, whereby taxpayer standing cases are discussed in content of concrete harm.

The final possible route to standing in cases challenging the BBA, congressional standing, also seems to have little chance of success. It must be pointed out that the Su-

preme Court has never addressed the question of congressional standing and that the Circuit courts are divided on this issue. However, the D.C. Circuit recognizes congressional standing in the following limited circumstances: (1) the traditional standing tests of the Supreme Court are met, (2) there must be a deprivation within the "zone of interest" protected by the Constitution or a statute (generally, the right to vote on a given issue or the protection of the efficacy of a vote), and (3) substantial relief cannot be obtained from fellow legislators through the enactment, repeal or amendment of a statute ("equitable discretion" doctrine). *Reigle v. Federal Open Market Committee*, 656 F.2d 873 (D.C. Cir.), cert. denied, 454 U.S. 1082 (1981). Although there is an argument to be made that in certain limited circumstances (e.g., where Congress ignores the three fifths vote requirement to raise the debt limitations) the voting rights of legislators are nullified and therefore there would be standing, the court would probably invoke the equitable discretion doctrine to dismiss the action. This "legislative exhaustion" requirement apparently does not take into account considerations of futility. In other circumstances challenging the enforcement of spending measures, Members of Congress would be subject to the same exacting standards as citizens.

Even if litigants could satisfy this standing requirement, courts would very likely dismiss their actions on the grounds that their claims were nonjusticiable political questions. The Court is *Baker v. Carr*, 369 U.S. 186 (1962), set out a lengthy test to determine when courts should dismiss an action on political question grounds. Since *Baker*, the Court has narrowed the political question doctrine to two elements: (1) whether there is a demonstrable commitment of the issue to a coordinate political department, and (2) whether there is a lack of judicially discoverable and manageable standards for resolving the issue ("justiciability"). See, e.g., *Nixon v. United States*, 113 S.Ct. 732 (1993).

Identical to the "redressability" issue discussed above, analysis of the first prong reveals significant separation of powers concerns. Any significant relief (outside of a congressional standing suit for declaratory judgment) would require placing the budget process under judicial receivership (e.g., injunctive relief setting a pro-rata budget cut or the nullification of any measure after outlays exceed receipts). This relief would, of course, interfere with congressional Article I powers. In other words, federal courts may not exercise Congress' spending and taxing authority, such authority being exclusively delegated to Congress by the Constitution.

Concerning the justiciability prong, the BBA does indeed contain "process" standards; however, it is doubtful that standing could be found to enforce such standards.

(Judicial Taxation) Some have also raised concern that the BBA would give the courts the power or authority to raise taxes. This concern, I believe, relies on a recent Supreme Court decision, *Missouri v. Jenkins*.

In *Missouri v. Jenkins*, 495 U.S. 33 (1990), the Court in essence approved of a lower court remedial remedy of ordering local, state or county political subdivisions to raise taxes to support a court ordered school desegregation order. Intentional segregation, in violation of the Fourteenth Amendment's Equal Protection Clause, had been found by the lower court in a prior case against the school district.

Would the balanced budget amendment allow a federal court to order Congress to raise taxes to reduce the budget? The answer is no. First, *Jenkins* is a Fourteenth Amendment case. Under fourteenth Amendment ju-

risprudence, federal courts may issue remedial relief against the States. The Fourteenth Amendment does not apply to the federal government.

Second, Congress cannot be a party-defendant. To order taxes to be raised, Congress must be a named defendant.

Presumably, suits to enforce the BBA would arise when an official or agency of the Executive Branch seeks to enforce or administer a statute whose funding is in question in light of the BBA. See *Reigle v. Federal Open Market Committee*, 656 F.2d at 879 n.6 ("When a plaintiff alleges injury by unconstitutional action taken pursuant to a statute, his proper defendants are those acting under the law * * * and not the legislators which enacted the statute", citing *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 175-80 (1803)). That official, however, cannot be ordered to raise taxes, because he or she does not have the authority to do so.

Finally, under Section 6 of the BBA, the enforcement mechanism, Congress could limit the type of relief granted by federal courts to declaratory judgments and thereby limit court intrusiveness into the budget process. This authority arises out of Article III's delegation to Congress to define and limit the jurisdiction of lower federal courts.

Mr. HATCH. Mr. President, let me also just take a few minutes on something that I think deserves more of a response.

I would like to speak on an important issue in this debate. This is an issue which was already debated last week, and on which the Senate has already voted.

Last week, amendments were offered on an unrelated bill regarding exemption for Social Security on the balanced budget amendment. Last week, the Senate voted twice on two approaches to protecting Social Security, and the votes were clear. It is the considered judgment of the Senate that we will protect Social Security from benefit cuts and tax increases enacted to balance the budget in any legislation implementing the balanced budget amendment. This body has already voted on that. We have ruled on that.

This proposal, which was introduced by Senator KEMPTHORNE, was supported by an overwhelming vote of 83 to 16. An amendment introduced by Senator HARKIN, which suggested that we exempt Social Security from calculations for meeting the balanced budget requirement in the discussion itself, failed by a vote of 62 to 38. The Kempthorne approach, which suggested we protect Social Security from benefit cuts and/or tax increases in legislation implementing the balanced budget, is clearly the most appropriate way to protect Social Security and is overwhelmingly supported by this body. However, an amendment has once again been introduced, and probably another one of many more which seeks to exempt Social Security from the balanced budget amendment in the Constitution itself.

Many of those who wish to exempt Social Security make the rhetorical point: "We should not balance the budget on the backs of the elderly." Aside from the fact that this amendment takes the unprecedented step of

referring to a statute in the Constitution itself or bringing a statute into the Constitution itself, the irony is that exempting Social Security from the balanced budget amendment would create an overwhelming incentive to do just exactly that. Let me be clear.

The effect of this exemption will be exactly the opposite of its intended objective. If that exemption is granted by this body, it would focus budget pressures on the Social Security trust fund that could destroy the viability of the Social Security Program. If balancing the budget will create tremendous pressure—and it will—all that pressure will flow through whatever escape hatch is opened in the balanced budget amendment. Whatever is exempted from the balanced budget rule will be that escape hatch. If Social Security is made the escape hatch by this exemption, the total force of pressure of balancing the budget will fall on Social Security.

For the life of me, I cannot imagine anyone trying to protect Social Security trying to do it this way. There will be overwhelming pressure to either redefine as many Government spending programs as possible as "Social Security," endangering its original entitlement benefit purpose, or to literally pull the funds out of the Social Security trust funds to balance the budget. In fact, there would be nothing to stop Congress from borrowing as much money as it wanted from the Social Security trust fund to finance any other Government programs Congress wants to finance.

How can anybody argue that we should exempt it out of the balanced budget amendment when 83 of us in this body voted to make sure that Social Security is protected in the implementing legislation? After all, that is why you have implementing legislation. That is why we have this section 6 in this amendment.

Congress shall enforce and implement this article by appropriate legislation which may rely on estimates of outlays and receipts.

To deny that would be a denigration of the whole Senate, or at least those 83 who voted that we will take care of it in the implementing legislation.

It is a slap in the face to all of us, as though we did not mean it. An exemption from the balanced budget amendment says to Americans: Give us in Congress a loophole in the balanced budget requirement and we will figure out later how big that loophole will be. It says to Social Security recipients: Trust us in Congress not to use your Social Security through this loophole to fund other programs.

I do not know about you, but I do not trust Congress if there is a loophole through which they can drive any kind of social spending under the guise that they change the definition of Social Security.

I do not think our seniors would like it either, when they find out how bad it is. Does anyone believe that Congress can resist a chance to spend other peo-

ple's money when it is given a blank check like this? That is why we have the debt problem we do now. If those amendments on Social Security, exempting Social Security, become attached in this amendment, that exemption would be a loophole you could drive any kind of spending truck you want to through. And it will not be long until the whole convoy of spending trucks and approaches will go right through that loophole. In other words, the balanced budget amendment would not be worth the paper it is written on. As politically attractive as that amendment may appear on the surface, it is misconceived and will serve to harm rather than help senior citizens.

The motivation for exemptions like this is to ensure that Social Security benefits will not be cut. This concern is misplaced for two reasons.

First, passage of the balanced budget amendment does not in any way mean that Social Security benefits will be reduced. It only requires Congress to choose among competing programs, and there are thousands of them in the Federal system right now that we wonderful Members of Congress created. And Social Security, everybody here knows, will compete very well.

It will be the No. 1 Super Bowl spending victor, and there is no use kidding about it; everybody knows that. An approach like the Kempthorne amendment in the Senate, overwhelmingly approved, is the best way to respond to this concern. It specifically would hold Social Security harmless. That is, Social Security would be protected from benefit cuts and tax increases, enacted for the purpose of balancing the budget.

Ironically, the proposed exemption from the balanced budget amendment does nothing to respond to this concern. Nothing in that amendment would protect Social Security recipients from either benefit cuts or tax increases. Those who say we are raiding the trust funds now to pay for the programs may be right, but exempting Social Security will only make that problem worse by making it the sole source of deficit spending. This will create a positive incentive to run a deficit in the Social Security trust fund, simply because you will be able to then, to offset revenue increases elsewhere in the budget.

Second, the biggest threat to Social Security is our growing debt and concomitant interest payments. Debt-related inflation hits especially hard on fixed incomes, and the Government's use of capital to fund debt slows productivity and income growth.

The way to protect Social Security is to support the balanced budget amendment and balance the budget so that the economy will grow. Senior citizens know this. They feel it. That is why a recent poll shows that an overwhelming 91.8 percent of seniors favor a balanced budget amendment. They want this country brought under control, too. They know that the viability of

their Social Security depends on whether we in Congress can get this budget balanced. They know it is the best way to protect their children and grandchildren and the best way to ensure that runaway deficits do not lead to runaway inflation, which hurts those on fixed incomes the most. It is harder on them, and it is especially hard on them.

Being a supporter of both the balanced budget amendment and Social Security, I believe this exemption that is asked for by some of our colleagues on the other side faces major concerns. I believe that the Senate has already voted on a better way to protect Social Security which would protect Social Security from benefit cuts and tax increases to balance the budget. This is the best and most appropriate way to protect Social Security for our seniors and our generation.

One last thought and then I will yield the floor to my colleague from Nebraska. If you do not think we raid trust funds around here, just look at last year's so-called anticrime trust fund. I know a little bit about that. I was on this floor for days and weeks on that issue. I went over to the House to help them with their problems and help to cut \$3 billion of pork barrel spending out of the trust fund that the House and conference committee had put in. We were successful.

When it went out of the Senate, our trust fund was \$22 billion. It was a trust fund set up to be paid for out of the reduction of 250,000 Federal workers. The purpose of it was to fight crime. By the time it got to the House and by the time it got through the conference committee—and I was on that conference committee—it was ignored on 30 amendments, and they had loaded up that trust fund with all kinds of pork barrel spending to make themselves look good. A trust fund to fight crime became a trust fund to spend and buy pork. If you do not think that will happen to Social Security, just exempt it in this amendment from being part of the total budget. And if anybody in this country believes that these two bodies here are not going to protect Social Security in the implementing legislation, then they have to be nuts. They have got to not understand basic reality in politics.

Constitutional amendments ought to read like constitutional amendments. They should not be legislative vehicles to protect anybody, except the American taxpayers and people, which is what this amendment will do. It is one of the few chances we have in the history of the last 60 years of profligate spending to do something about it.

This is it, folks. If we do not pass this balanced budget amendment, because of gimmicks like trying to exempt Social Security which, in turn, means the trust fund will be attacked by everybody who wants to spend all the time, and you cannot stop it around here, there will be a loophole that will make

the constitutional amendment worthless and meaningless, then we have to have rocks in our head.

So do not let anybody be deceived by these so-called valiant attempts to save Social Security. I guarantee you if we do not put a balanced budget amendment in place, Social Security is going to be in trouble just like everything else in the budget, because we will not be able to pay for it, because these people are not going to do the things that have to be done to make priority choices among competing programs until we have this balanced budget amendment, and this is it, folks.

This is 12 years of work; this is a bipartisan amendment. No Republican and no Democrat can claim total control or credit for this. All of us can. This is the chance to get there. If we miss this chance and miss this opportunity—and by no means do I think we are going to, because I think we will make it before the end—I shudder for the country and I shudder for our seniors, because they are going to be the people that are going to be hurt the most.

I yield to my dear colleague from Nebraska, and I appreciate his patience in letting me make these points.

Mr. EXON. Mr. President, my colleagues know that I am a long-time supporter of the balanced budget constitutional amendment.

We have tried numerous other remedies, but they have failed to restrain our buy-now-and-pay-later habits. We have only proved how clever we are in creating loopholes and dodging the spending limits. I believe that the balanced budget amendment is our only hope; it is our last hope to break the cycle of runaway Federal spending.

However, too many people deal with the balanced budget amendment in the abstract. They will not face up to the harsh reality that goes along with it. They are queasy about telling the American people about the sacrifices that will be involved. The real work begins after we pass the balanced budget amendment. Passage of the legislation is merely a prologue to the really tough decisions that we have to make. We will have to roll up our sleeves and begin in earnest to cut spending.

The problem, Mr. President, is this: We have a distorted picture of how much is available for us to cut. I will try in these remarks to let the sunlight of straight talk shine in, revealing fully and honestly our task. It was swept under the rug in the House. We must not allow that to happen in the Senate.

Mr. President, the spending pool looks much bigger and deeper than it really is. It would be prudent to test the waters before we dive in. It would be prudent for the people, their Governors, and their legislators, to know what is in the constitutional amendment. It is a far-reaching measure, and it is time we take off the blindfolds, open our eyes and take a look at it. We

find ourselves in such difficult straits because so much spending is placed off-limits. The pool becomes smaller and smaller and shrinks and shrinks. And one program after another is drained into a protected reservoir, not to be cut.

I want to take a few minutes to walk my colleagues through this daunting task of balancing the budget by the year 2002, the first year when the balanced budget amendment could take effect.

Let us start with some reference points. The Congressional Budget Office estimates that the projected deficit for the year 2002 will be \$322 billion. Under the CBO sample deficit reduction path, we would have to make \$1.2 trillion in savings over 7 years. Setting aside possible debt savings, we would need to cut \$259 billion in the last, the seventh, year.

Total spending for the year 2002 is estimated to be \$2.3 trillion. At first look, you might say we can certainly find \$259 billion in savings out of that.

The problem is that the size of the \$2.3 trillion spending pool is very misleading. Much of it has already been spoken for.

For example, \$344 billion is reserved for interest on the debt. We cannot do anything about that. We certainly cannot touch that money. It would cause financial chaos throughout the world. So after we take that out, we are down to \$1.9 trillion in spending. To bring us into balance, we would need to make a 13-percent across-the-board cut in spending. That does not sound too bad. But what about Social Security?

The Social Security bill for the year 2002 runs to \$481 billion. The Republican leadership in the House and Senate have stated that Social Security should not be used to balance the budget. That is a good argument, but, if we exclude Social Security and interest on the debt that I have just referenced, our spending pool from which to make cuts has shrunk to \$1.4 trillion. To bring the budget into balance now would require an 18-percent across-the-board cut.

Now, we come to a very important matter called defense, a major component of discretionary spending. I have expressed my concerns about the defense budget and the cuts that have been made and the hits that national defense has taken over the years. I believe that we are courting serious danger to national security if we cut any deeper into that program.

But, for the sake of argument, let us use a ballpark estimate of the President's 1996 defense budget in the year 2002, about \$275 billion. Now subtract that from our available spending pool and we are down to \$1.2 trillion. That translates into a 22-percent across-the-board cut in everything else to achieve a balance.

I am also hearing a great deal about tax cuts. That has been discussed on the floor this afternoon. I, too, favor cuts when we can afford them. But

right now, our priorities should be that deficit reduction must come first. How can we mention tax cuts and balanced budget amendment in the same breath? It strikes me as the height of irresponsibility.

But for a moment, let us assume that the tax cut in the House Contract With America is passed. In the year 2002, that represents \$97.7 billion drain on the Treasury, further shrinking that pool that I have been making reference to.

The tax cut increases the spending cut required to reach balance from \$259 to \$357 billion. We are headed in the wrong direction, Mr. President.

What about the across-the-board spending cut needed to achieve a balanced budget? If we pass the tax cut, it climbs to an incredible 30 percent of all remaining spending.

I could carry this exercise even further. If veterans programs were taken off the table, the across-the-board cut would rise to 31 percent. Remove military retirement, it is up to 32 percent. Take off civilian retirement, it is 34 percent. Subtract Medicare, it is 50 percent. And so on, and so on, and so on.

Mr. President, these are the facts. These are facts that I daresay few Members, if any, in the House took a look at and probably not too many here in the Senate have taken the time to look at them either.

Of course, I do not believe that we will ever reach the point where we will have to cut 50 percent from all other programs. That is absurd. But it does show that if we follow this hands-off approach, a small number of discretionary programs are going to take a very large and perhaps an unfair share of the cuts.

And what sort of programs are these that would be left for the up to 50 percent cuts? Everything from the Federal Bureau of Investigation, to the Women, Infants and Children feeding program, to Head Start, to cancer research, to keeping open the Grand Canyon and Yellowstone National Parks, and all of the other programs in between.

Mr. President, the point here is that the American people have a right to know what it will take to balance the budget. We should lay out the policies and actions that will be necessary to reach that goal and not hide behind some curtain and say, "We'll tell you about it later." We should do it before we vote on this legislation.

Mr. President, let me emphasize even further how difficult this task which this Senator supports is going to be.

I am going to read a portion now, Mr. President, of a letter that was recently handed to me from the Communication Workers of America that I think is very instructive, not only for Nebraska, but the other States that are mentioned in the Wharton deliberations and reports, on what would happen to Nebraska if the balanced budget amendment to the Constitution would pass. The letter reads:

DEAR SENATOR EXON: The Communication Workers of America (CWA) urges you to reject the federal balanced budget amendment, S.J. Res. 1, when this legislation comes before the Senate for debate and vote.

Enactment of this proposal would wreak havoc on the economy of Nebraska, according to a study conducted by Wharton Econometric Forecasting Associates (WEFA).

The WEFA study forecasts that enactment of a balanced budget amendment would cause a drop in personal income of \$6,900,000,000 (six billion, nine hundred million dollars) among residents of Nebraska by the year 2003. This is a decrease of 12.9 percent from the 1994 level.

Similarly disturbing, a balanced budget amendment would reduce employment in Nebraska by 29,300 jobs by 2003. This would increase Nebraska's unemployment rate by 2.6 percent.

The service sector of Nebraska's economy would be especially hard hit, according to the WEFA study.

On a national level, a balanced budget would bring about a loss of 6,400,000 jobs by 2003. Real Gross Domestic Product (GDP) would decline by 3.7 percent.

In conclusion, the balanced budget amendment would lay waste Nebraska's economy and damage America's well-being.

CWA requests that you vote against this misguided proposal. Attached is information documenting the negative effects that this legislation would precipitate.

Signed, Lou Gerber, Legislative Representative.

And attached to that is a copy from the Wharton School, "How a Federal Balanced Budget Would Affect Nebraska's Economy."

Behind that, after Nebraska's economy, there is a table that shows its similar effect on every other State in the Union.

I ask unanimous consent that this material be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I ask further that, at the conclusion of my remarks, a sheet entitled "Across the Board Spending Cuts Required to Achieve the Balanced Budget in 2002," which I referenced in my remarks, be printed in the RECORD, also.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. EXON. Mr. President, let me comment if I can. How in the world could a Senator from Nebraska, after reading this work by the Wharton group, support a balanced budget amendment?

Well, No. 1, I have not had a chance to study this in great detail. Obviously, the organization that prepared this is a well-established, well-known, well-respected forecasting firm. I remember using their material way back 20 years ago when I was Governor of Nebraska. So they are not a fly-by-night outfit. They have evidently done a great deal of study and work. I know not what assumptions, Mr. President, they made in preparing this material because, obviously, they had to make some.

It is safe to say that what the Wharton people are pointing out here, while

I do not suspect it is going to have an adverse effect on Nebraska to the extent that they outline, is that the constitutional amendment to balance the budget will cause some pain, suffering, and hardship in Nebraska and every other State in the Union.

Another way of saying that, Mr. President, is we have to swallow some pretty sour-tasting medicine and hope that it can cure us from the spending spree that in the last 14 years has seen a series of multibillion-dollar annual deficits that are transferred at the end of the year over to the national debt.

In the last 14 years, the national debt of the United States has grown from under \$1 trillion to the present level of \$4.7 trillion, and it is going higher. Every person in the House and every person in the Senate knows that. We will have to raise the debt ceiling and borrow more money before the end of calendar 1995. Even if we balance the Federal budget by passage of the constitutional amendment to balance the Federal budget, it is obvious, Mr. President, that from now until the year 2002—when we intend to reach balance—our debt is going to continue to rise certainly somewhere near the \$7 trillion figure, because every projection that we have indicates that we are going to have multibillions of dollars in deficit for the next several years.

I started out by saying, Mr. President, that I was for a balanced budget amendment. I am for a balanced budget amendment even with the sour medicine, even with the hurt that it is going to cause my State of Nebraska. I am for it so long as everyone shares and shares alike as reasonably as possible. Then I believe that the people of the State of Nebraska would say, if we are treated fairly and if we are not picked on, if we have to swallow this pill to straighten out the fiscal mess of the Federal Government, let Congress do it and get it over with. Let's quit passing it along each and every year, as we have been doing since Hector was a pup, charging it off to our children and our grandchildren.

Mr. President, let me say in conclusion that I think we must do this. I think we must swallow the medicine. I think we must make the hard choices. But I think we should emphasize the people's right to know. If the Wharton School of Econometric Forecasts are not right, then we should have other people make a study as to what is right for Nebraska—and Iowa and North Dakota and South Dakota and Kansas and Colorado and California and Maine and Florida and Washington State, and everybody in between.

I am rising, Mr. President, to try to set a record straight, to tell the truth, to emphasize once again that passing a constitutional amendment to balance the budget, as was done so bravely in the House of Representatives last week, is the easy part of the ball game. The nitty-gritty, the line play, is what counts. I simply say, Mr. President, this Senator is going to be pushing for a constitutional amendment to balance

the budget, but at the same time I am going to be saying to my colleagues in the Senate on both sides of the aisle, we need to let the sunshine in. We need to take off the blindfolds. We need to tell the truth. Then and only then, do I think we would be able to marshal the support of the people of this country to make this work. Then and only then, Mr. President, can we expect the legislators of the 50 States to take a look at this with some knowledge and decide whether or not they want to ratify the amendment as three-fourths of them will have to do before this amendment becomes part of the Constitution.

Mr. President, I think we are on the right track. But I think the track should be bearing a train toward a balanced budget amendment that goes slow enough so that we can see the pit-falls on the side of the road. Mr. President, I urge support for a constitutional amendment to balance the budget with its pain and suffering and with its warts, so long as we tell the people the truth and let the sunshine in. I yield the floor.

EXHIBIT No. 1

[From the Coalition for Budget Integrity, Feb. 1994]

HOW A FEDERAL BALANCED BUDGET AMENDMENT WOULD AFFECT NEBRASKA'S ECONOMY

BBA'S IMPACT ON NEBRASKA

10 consecutive years of reduced personal income.

7 consecutive years of overall job loss.

The Service Industry would be particularly hard hit, suffering job losses for 9 years.

The Finance and Banking Industry would also face 9 years of job losses.

8 years of higher than necessary unemployment rate.

STUDY SHOWS HOW A FEDERAL BALANCED BUDGET AMENDMENT WOULD HURT EACH STATE'S ECONOMY

The second part of a two-part study done by Wharton Econometrics Forecasting Associates (WEFA) details the impact of a federal balanced budget amendment on individual state economies. The first part of the study, which was released on Monday, February 14th, analyzed the effects of a balanced budget amendment on the national economy over the next ten years (1994-2003). It found that in 2003 the nation's economic output would drop sharply, millions of jobs would be destroyed, the unemployment rate would soar, and taxes would be the highest in postwar U.S. history. In addition, state and local governments would be hit hard, collecting \$125.7 billion less in taxes in 2003 than they would without the amendment.

The second part of the study delineates even further how a federal balanced budget amendment would wreak havoc on each state's economy. As with the first part, the study assumes the federal budget would be balanced over a six year period ending in 2000 and would remain balanced thereafter. The balancing would be achieved by raising one dollar in taxes for every two dollars in spending cuts.

While the exact impact would vary from state to state, all states would suffer severe economic decline in 2003. Personal income would be, on average, 13.5% below what it otherwise is expected to be in 2003. For many states, that means a loss of between \$20-\$100 billion in personal income in that one year alone.

No state would be spared from serious job loss. On average, in 2003 the number of jobs would drop 135,000 per state below what WEFA otherwise predicts without a balanced budget amendment in place. For example, New York would lose 140,000 jobs, Tennessee would lose 168,000 jobs, Illinois would lose 190,000 jobs, Ohio would lose 232,000 jobs, Pennsylvania would lose 255,000 jobs, Florida would lose 521,000 jobs, Texas would lose 594,000 jobs, and California would see a loss of over 712,000 jobs in 2003.

The unemployment rate would rise in each state. In some states, it would climb by as much as eight percentage points or more above the rate WEFA forecasts without a balanced budget amendment.

The construction industry would be hurt badly. Housing starts would decline in all fifty states, in some states by forty thousand units or more in 2003 alone.

SUMMARY OF ECONOMIC EFFECTS IN 2003

State	Drop in personal income		Loss of jobs		Percent of unemployment rate would rise
	In billions	In percent	In thousands	In percent	
AL	-\$15.4	-12.7	-88.3	-4.4	+4.2
AK	-6.4	-23.6	-93.5	-21.9	+6.4
AZ	-18.2	-14.6	-130.9	-7.0	+8.8
AR	-7.3	-10.3	-54.0	-4.6	+2.6
CA	-148.0	-12.2	-712.5	-4.8	+5.7
CO	-17.6	-13.6	-104.3	-5.4	+3.3
CT	-17.9	-11.7	-63.6	-3.7	+3.5
DE	-3.0	-11.3	-15.6	-3.9	+3.6
DC	-18.2	-55.1	-241.8	-28.5	+13.3
FL	-73.6	-14.0	-520.9	-7.1	+5.0
GA	-35.2	-15.4	-312.0	-8.3	+4.8
HI	-6.3	-13.9	-52.6	-8.1	+2.2
ID	-4.6	-13.3	-24.8	-4.4	+3.2
IL	-52.3	-11.4	-190.4	-3.1	+2.2
IN	-20.0	-10.7	-108.5	-3.6	+2.1
IA	-12.9	-14.5	-59.0	-4.1	+3.3
KS	-9.0	-10.4	-42.5	-3.3	+2.2
KY	-13.7	-11.6	-100.1	-5.4	+4.1
LA	-17.7	-12.7	-121.3	-5.8	+2.9
ME	-4.5	-10.3	-24.0	-3.9	+3.5
MD	-30.2	-14.5	-186.4	-7.8	+4.8
MA	-20.9	-8.6	-24.9	-0.8	+2.2
MI	-33.2	-10.1	-152.1	-3.3	+3.0
MN	-16.2	-9.7	-86.1	-3.3	+2.4
MS	-10.3	-13.7	-82.7	-6.5	+3.5
MO	-22.5	-12.4	-98.8	-3.6	+1.8
MT	-1.9	-8.2	-11.0	-2.9	+3.2
NE	-6.9	-12.9	-29.3	-3.4	+2.6
NV	-7.1	-13.0	-59.0	-6.4	+7.5
NH	-5.3	-12.3	-29.0	-5.4	+9.4
NJ	-43.6	-11.8	-178.3	-4.5	+4.5
NM	-8.0	-16.7	-80.9	-10.8	+3.0
NY	-64.2	-8.0	-140.7	-1.6	+2.2
NC	-32.4	-14.2	-277.0	-6.8	+3.3
ND	-2.2	-11.2	-4.1	-1.3	+1.5
OH	-43.4	-11.8	-231.8	-4.2	+2.4
OK	-12.0	-12.0	-46.9	-3.2	+3.3
OR	-21.2	-21.4	-196.9	-13.0	+7.7
PA	-56.6	-12.9	-254.6	-4.5	+3.9
RI	-3.7	-10.1	-15.5	-3.2	+5.8
SC	-15.3	-14.2	-162.3	-8.4	+4.5
SD	-2.4	-11.2	-13.5	-3.7	+1.6
TN	-21.8	-13.0	-168.1	-6.2	+5.5
TX	-93.6	-14.3	-593.9	-6.2	+3.2
UT	-7.8	-13.9	-63.0	-6.0	+2.0
VT	-1.2	-5.4	-3.9	-1.1	+0.5
VA	-34.5	-13.8	-242.9	-7.0	+3.4
WA	-28.5	-15.1	-208.8	-7.7	+4.5
WV	-4.3	-8.0	-22.1	-2.8	+2.6
WI	-18.8	-10.9	-111.7	-3.9	+2.1
WY	-2.0	-13.9	-18.4	-7.5	+2.9

EXHIBIT No. 2

Across-the-board spending cuts required to achieve balance in 2002

[CBO estimates except where noted; dollars in billions].

CBO projected deficit for the year 2002	322
Savings required to achieve balance: (CBO 1/5/95 deficit reduction path):	
Policy savings (excluding tax cuts)	259
Interest savings	64
Total savings	323
Total spending for fiscal year 2002 (without offsetting receipts or deposit insurance)	2,298

Exclude net interest	-344
Spending w/o interest	1,954
Percent across-the-board cut	13
Exclude Social Security	-481
Spending w/o interest and Social Security	1,473
Percent across-the-board cut	18
Exclude defense (Preliminary estimate of President's FY1996 request)	-275
Spending w/o interest, Social Security and defense	1,198
Percent across-the-board cut	22
Assume \$97.7 billion in tax cuts in 2002 (Treasury estimate) increasing total policy cuts required for balance to \$357 billion	98
Percent across-the-board cut	30
Exclude Veterans programs (compensation, pensions and medical care)	-42
Spending w/o interest, Social Security, defense, and veterans' programs with tax cuts	1,156
Percent across-the-board cut	31
Exclude military retirement	-41
Spending w/o interest, Social Security, defense, veterans' programs, and military retirement with tax cuts	1,115
Percent across-the-board cut	32
Exclude civilian retirement	-51
Spending w/o interest, Social Security, defense, veterans' programs, and all federal retirement with tax cuts	1,065
Percent across-the-board cut	34
Exclude Medicare	-344
Spending w/o interest, Social Security, defense, veterans' programs, federal retirement and Medicare with tax cuts	720
Percent across-the-board cut	50

Mr. HATCH. Mr. President, I want to thank my colleague for the lucid and encouraging remarks. I appreciate his leadership in working toward balancing the budget and standing up so much on this issue. He is a prime cosponsor of this amendment. That means a lot to those Members who have been fighting so hard to get this constitutional amendment passed. So I want to just personally express my regard and comments.

Mr. EXON. I thank my friend and colleague from the great State of Utah.

Mr. HATCH. Mr. President I would like to respond to some of the remarks made earlier by our distinguished ranking member on the Judiciary Committee about capital budgets. The proposed exemption for so-called capital investments could help evade the purpose of the balanced budget amendment or make it substantially more difficult for future Congresses to make capital investments.

I have to confess that I am not certain of the purpose of the amendment as it is drafted, or at least as I anticipate it to be drafted. It appears to be a provision at war with itself. The first sentence seems to encourage capital investments by taking them out of the balanced budget rule. But the last two sentences seem to be designed to discourage capital investments.

Now, this provision opens up a loophole in the balanced budget rule and unduly limits Congress' ability to make capital investments. There would be a powerful incentive for Congress

and the President to help balance the budget by redefining more programs as capital investments. A gimmick capital budget exemption could actually endanger capital investments as fake investments crowd out real capital investment.

Furthermore, the 10-percent limit ties the hands of future Congresses that may choose among the competing programs to fund more capital investments than this limits allows. With the talk of a need for infrastructure investment by my friends on our side, I am sure they would want to tie Congress' hands this way. A future Congress may justifiably decide to make greater investments in this area.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Washington.

Mr. GORTON. Mr. President, yesterday when I spoke on the subject of a balanced budget amendment, a vitally important subject which, without doubt, will occupy the next many days of debate in this U.S. Senate, I observed that Members' views on this subject fell into what seemed to be three categories.

One category, it seemed to me, consisted of those Senators on the liberal side of the political divide who were essentially uninterested in a balanced budget, who were defenders of the status quo, whose observation was that their priorities had, by and large, been met by Congress operating the way it does without the constraints of a constitutional amendment inhibiting unbalanced budgets, and that they would forthrightly defend the status quo as being far superior to a constitutional amendment on a balanced budget because such a budget was essentially undesirable in the United States.

The second category, which was relatively small given our history, consisted of those Members who were genuinely interested in fiscal responsibility and in a balanced budget, but who felt it was wrong to lock constraints against an unbalanced budget into the Constitution of the United States. In that case, it was my opinion that the experience of the last 10 years, 20 years, 30 years, 40 years, showed to most the folly of such a pursuit; that neither statutes nor an abstract sense of fiscal responsibility ever seemed to motivate a sufficient majority in Congress at a sufficiently high degree of priority to be successful, and that that group carried a very heavy burden of proof as to how we could reach the goal of a balanced budget without changing the Constitution. And therefore this group of Senators would be relatively small.

And the third group, consisting of the majority of the Senate, who feel that a drastic remedy is in order, who feel indeed we are in something of a revolution, and that in order to satisfy the demands of the American people we should enshrine in the Constitution a provision which makes it much more

difficult to act in a fiscally irresponsible manner, would of course put forward that point of view eloquently and well, I hope, and ultimately triumph.

Only 24 hours have gone by during the course of this debate since I made those observations, and I must confess, at least if I read or hear those who oppose this constitutional amendment correctly, I was wrong about the first two groups. To the best of my knowledge, no single person has come into this body—no Member has come into this body, no matter how liberal, no matter how much in favor of an activist and increasing Federal Government, to state in a forthright fashion that that Member does not believe that a balanced budget is a particularly good idea, or at least a high priority. All of those who object to this constitutional amendment have given lip service to the proposition that a balanced budget is desirable, whatever their record in the past in voting for or against those measures, those items which would lead us to that end.

So that first group, that status quo group—while I strongly suspect that it exists—seems, so far in this debate, unwilling to identify itself. We who believe a constitutional amendment to be necessary are challenged with the proposition that we cannot make such a request without coming up with a detailed roadmap as to how we are going to get there. In fact, it is demanded of us that we have binding legislation governing at least three future Congresses, stating precisely how we will get from this point to that without regard to changes in our economy, changes in our international situation, dangers in the world at least, or changes, for that matter, in the majority, in the direction of the Congress of the United States.

Personally, I think the demand is an absurd one. It is legally impossible for us to bind future Congresses by a statute. We will in fact come up with a budget this year which will include a very fine downpayment toward a balanced budget, but we must recognize that future Congresses can take us on a different course of action, even if this proposal becomes a part of our Constitution. Many of those who have spoken against the constitutional amendment, should they come back to power, may very well wish to increase taxes rather than decrease spending in reaching that goal.

But my point here this afternoon is just this. If in fact I was wrong in dividing the Members into three categories in the course of this debate and there are only two—those who believe the constitutional amendment on a balanced budget to be necessary and those who believe firmly and fervently that we ought to do it but ought to do it without a constitutional amendment—then is it not every bit the obligation of that second group to tell us exactly how they would reach a balanced budget day by day, year by year,

item-by-item, as it is for us to favor the constitutional amendment to do so.

It seems to me self-evident, if those who say the status quo is fine, that we must discipline ourselves to reach a balanced budget, are to prevail, and if they demand of those who want a constitutional amendment a road map, let us see their road map, too. How do opponents who wish to operate under the same system—under which we have operated throughout our entire history, and most particularly during the course of the last decade without coming close to balancing the budget—how do they propose that we do so? What reductions in spending over a 7-year period do they propose? What new taxes during that period of time do they propose? What changes in entitlements do they propose? In spite of their demand for that kind of detailed blueprint on our side, a map, we have so far received nothing but silence—lip service, statements about discipline, statements about what we ought to do, but not the remotest hint as to how a Congress, which has never been able to reach that goal under the present regime or in the past, can and should do so in the future.

Mr. President, I do not expect this request of mine to be honored. I believe it to be every bit as valid—in fact, more valid than their demand of us—as if when a constitutional amendment passes everyone will be in the same boat, its proponents, its opponents, the President of the United States, as well as the Congress of the United States. We will operate under different rules and under different circumstances.

We will be dealing with real issues, with real cuts, with real proposals for tax increases. But those who say we do not want to change the regime, we do not want to make that requirement, please vote no on this constitutional amendment. They, it seems to me, have an even more compelling, a greater, a more imperative duty, to say, if we retain the status quo, here is how we reach the goal we all share. That they have not done, Mr. President. That I will warrant they will not do, and their failure to do so will show the falsity, the bankruptcy of the demand that those who propose a constitutional amendment come up with—that, besides a few more.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESPONSE TO THE MEXICAN FINANCIAL CRISIS

Mr. PELL. Mr. President, earlier today President Clinton announced that he was working to develop an alternative package for addressing the Mexican peso crisis. This comes as a welcome response to a situation that was worsening by the day, as financial markets reflected increasing pessimism that Congress would approve the loan guarantee package. It is unfortunate that we were unable to act more expeditiously to help stem the crisis, and I want to commend the President for recognizing that we would all suffer from further delay.

While the details of the new package have not yet been clarified, as currently proposed it would include a \$20 billion share from the United States Exchange Stabilization Fund, \$17.5 billion in credits from the IMF, and a \$10 billion short-term lending facility from the Bank of International Settlements. These aggressive but prudent measures should serve to shore up the Mexican peso as well as investor confidence in the Mexican economy as a whole.

Mr. President, without immediate action on the part of the United States and the world community, the short-term debt crisis in Mexico threatens to escalate into a full-scale recession that would negatively impact on all of us. Perhaps lost in the debate over the details of the financing mechanism was the fact that the United States and Mexican economies are now closely intertwined, and what happens there cannot help but affect us. Mexico is our third largest trading partner; American jobs and exports rely on Mexico's financial stability and growing prosperity. Politically, neither our immigration problems nor our war on drug trafficking can be adequately addressed without Mexico's active cooperation. We have been fortunate that across our long southern border is a friendly and stable ally. It is in our own self-interest to help ensure that a short-term debt problem does not become a lasting source of economic, political and social turmoil across the hemisphere.

I look forward to supporting President Clinton and urge my colleagues to do likewise.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE MEXICAN FINANCIAL CRISIS

Mr. BENNETT. Mr. President, today the President of the United States announced his intention to use his executive authority to intervene in the matters relating to the Mexican financial crisis.

Like other Members of the Senate, I have followed this crisis with great interest over the last few weeks. As a member of the Banking Committee, I participated in this morning's hearings on this issue, which were interrupted by the announcement of the President's action. Perhaps because of my interest in economic matters and my background in business, I have paid close attention to this and found that it has managed to consume some of my time in areas that I might have preferred to spend talking about other things. But it has become a very important part of my life for the last few weeks, and I thought it appropriate that I make a comment at this time.

Mr. President, I have likened the crisis in Mexico to an analogy that I hope will help people understand the position that I have taken. Suppose, Mr. President, that your neighbor suddenly came pounding on your door with the news that his house was on fire. You go out, look at his house and, sure enough, there are flames and smoke coming out of the attic. And your neighbor says, "My house is on fire; the fire is in the attic; my children are down in the basement. If we do not get the fire put out, my children will die. You must help me. Lend me your garden hose." And you say to the neighbor, "Well, there is no question that your house is on fire and you need help, but I do not think the garden hose will reach. I do not think it has enough water pressure to get up to the attic. I think there must be another solution." "No, you do not understand," says the neighbor. "There are combustible materials on the top floor. When the fire gets down through the attic, they will catch fire and my children will die. Let me give you more information." You say, "I do not need any more information about the fire. The information I need has to do with the ability of the garden hose to reach the problem."

That, in my view, has been part of the difficulty with the debate we have had around here about this issue. People keep coming to us and telling us "the Mexican house is on fire." My response is that I know that, I accept that. I do not argue with you, A, that it is on fire and, B, we need to help. My concern is whether or not the proposed solutions will help. And if they will not, I urge us to look someplace else to try to find something that will.

So it is in that spirit that I have been carrying on conversations with people from the Federal Reserve and the United States Treasury and met with officials from Mexico on several occasions to try to be sure that we are coming up with some kind of fire extinguisher that will do the job.

The more I worked on this, the more concerned I became that maybe we would not be able to do that. Today, the President has taken that decision out of our hands—I think very wisely and competently. The President has recognized that further delay, which would be an automatic result of leaving the thing before the Congress, would result in serious and perhaps irreparable harm. The fire had now gotten down from the attic, if you will, into the top floor, and it was necessary for the President to act and act quickly. I had suggested to members of the administration that they start thinking of a solution that did not require congressional action. They were reluctant to do that for reasons that I can fully understand, saying a matter as serious as this is something that should be brought to the Congress, and we should have an opportunity to debate and examine it before it is put into play.

But events overtook that process and the President used the authority that was available to him under the exchange stabilization fund to move ahead. As I say, I urged officials at the Treasury to look at this possibility as much as a week or 10 days ago. As I say, they were reluctant because of their desire for congressional approval. Now they are in a circumstance where, in effect, all Congress can do is disapprove after the fact. I hope we will not do that. I hope we will recognize that the President did about the only thing he could do under the circumstances. I hope the program that he has put in place will work; that we will indeed "see our neighbor's fire extinguished," because this is a matter of great concern to all Americans, with the number of jobs that could be lost, the number of exports that could be affected. All of those statistics are on the public record.

There are a number of things that I think the Mexicans need to do. We have talked about them on this floor from time to time. I believe that this deal, as put in place by the President, is a better deal for the American taxpayer than the one that was first proposed, for several reasons. The first deal called for \$40 billion, all of it charged to the American taxpayer.

This deal calls for, up front, \$20 billion charged to the American taxpayer with the balance, another \$27 billion, spread over a variety of agencies and countries. True, some of that which is spread over these other agencies might end up being American taxpayers' money, but at least, on the front end, the exposure to the American taxpayer is reduced.

Second, this deal produces burdensharing; that is, other countries are now going to be involved, whereas before it was strictly an American deal. Now we have gotten the attention of the other "householders" in the neighborhood, if you will, and they are bringing their "garden hoses" to the fire along with ours. I think that is a

good thing, and that was not present in the first proposal the President made.

Third, this proposal involves the Federal Reserve System. The people at the Federal Reserve will be involved in enforcing the conditions that the Mexicans agree to. I think that is a good thing. It was not present in the previous deal. In the previous deal, any enforcement that took place would be under the direction of the Treasury and whatever allies they could gather from the IMF. I am not one who has a great deal of confidence in the ability of the IMF to solve this kind of a problem. I think it builds the confidence of the financial community to know that the people at the Federal Reserve System, whose principal activity in life is to defend the American economy and the American dollar, will be involved in overseeing the activities of the Mexicans. So inserting the Federal Reserve into the package improves the package for me considerably.

For these reasons then, Mr. President, I offer my congratulations to the President, and to the two leaders, Senator DOLE and Senator DASCHLE, for their willingness to give expressions of approval to the President for this action. He did not need those expressions of approval. Under the law, he could have proceeded without them. But it demonstrates the fact that the Congress is not unmindful of the "fire next door," that the two leaders, in a bipartisan fashion, have stepped forward to indicate their approval. The same thing is true in the House. Speaker GINGRICH and Leader GEPHARDT have both indicated their approval, as well.

So now all we can do is watch and wait. We have no assurance that this package will solve the Mexican problem. But at least there is now someone on the ground with a "fire hose" that presumably will be able to put out the fire. It is a hose that is more suited to the task than the garden hose that was originally asked for, and I add my voice to those that are being raised, saying to the President: You have my best wishes that this will work, and I will do whatever I can to cooperate with you and the administration to see that it does work.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. BENNETT. Mr. President, we are in the midst of a debate on the balanced budget amendment. At some point in this debate, I will have a

lengthier and perhaps more comprehensive statement to make but, taking advantage of what the sportscasters call a break in the action, I thought I would make a few observations now about this particular matter.

I am a reluctant convert to the balanced budget amendment. As I have said from time to time around here, my educational background is as a political scientist. My whole career has been spent in business. But when I was in college, I studied the works of Jefferson, Madison, Hamilton, and Jay, and, yes, Karl Marx, Friedrich Hegel, and some of the other political philosophers. That has always been my avocation, even in the years that I was in business. I guess it was inevitable, given that particular bent on my part, that I would end up, when I could afford it, back in politics.

From a pure political science point of view, I can make a brilliant case against the balanced budget amendment. I can give you all of the reasons why a balanced budget amendment is not sound politics. Unfortunately, the real world sometimes intrudes upon the world of the political scientist and causes us to do things that are perhaps not as philosophically pure as we might like.

Let me give you an example. As I understand the Constitution and the theory and philosophy behind the Constitution, election of Senators by State legislatures is the ideal way this body should function. The Senate was created to represent States. What better way to make sure that the Senate represents States than to give the States full and complete control over the choice of their Senators. And the States did that in time-honored fashion through their own State legislatures.

That is the political science pure way that the Senate should operate. There is one problem with it. In the practical world, State legislatures that were divided by party—that is one party controlling one House and the other the other—would go for an entire Congress without being able to elect a Senator.

The Framers of the Constitution did not foresee the rise of the two-party system and there is nothing in the Constitution to accommodate it. There is nothing in the Constitution to deal with the challenges that come from it.

Also, people who were unscrupulous, who just decided they wanted to become Senators, many times could buy an entire State legislature, a bargain, if you will. And the corruption that surrounded the election of some Senators in the days when State legislatures chose Senators became so rampant that finally we had to go to another solution to the choice of Senators, which, while not pure to the philosophical doctrine of the Constitution, made eminent good sense. And so we passed the 17th amendment that called for direct election of the Senators.

I am not sure the caliber of the Senate got any better when we moved from

the time when State legislatures chose Senators to the time when the voters did, but the various problems that I have described went away. And we have lived with the result of this very well since the time the 17th amendment was passed.

I think there is a parallel argument here with the balanced budget. I can give you, as I said at the outset, all kinds of reasons why the balanced budget amendment is not a good constitutional doctrine; all kinds of reasons why the Founders were wise to leave it out of the Constitution.

Unfortunately, we have practical pressures that have now overwhelmed us that say to us it is time for us to recognize that we need to adopt a balanced budget amendment. What are those practical pressures?

If I can go back to my political science background, I share with you the one thing that philosophers say is wrong with democracy as a form of government. Simply put, it is this: Once the people discover that they can vote themselves largess, the democracy will become financially unstable and it will fall. That was an article of faith among political scientists for centuries.

What is the oldest democracy in the history of humankind that has defied this principle? It is this one. We have lasted longer as a democracy than any other in the history of the planets.

And what is threatening our financial survival? It is the discovery of the people that they can, through their elected representatives, vote themselves largess—that is, get the Government to give them back more money than they give it—that is threatening our survival.

Now, we did not do that for over a century, maybe a century and a half, and then we began to discover that. And, having discovered that principle and gotten comfortable with it, we have started down the dangerous path that has historically undermined democratic governments all along.

So, in recognition of the fact that we have finally discovered that ancient truth and are acting on it, I say the time has come for us to adopt a balanced budget amendment.

I see the Senator from Arizona has arrived. As I say, I have a longer and more comprehensive statement on this issue that I will offer at some point. But I felt at this time that I should lay the groundwork with this little philosophical note before I get into the meat and potatoes of this real debate. I hope those who spend their time looking at history and philosophy will grant me a point or two on this one and recognize that I am addressing it in something other than the practical political hustings of the last campaign.

With that, Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President.

First, I want to compliment the Senator from Utah. His reference to the famous historian Alexander Tytler, I think, is an apt way to characterize the dilemma that faces our Nation today, because it is true that certain segments of our society have determined that they can vote themselves largess from the public treasury. And it was at that point that this famous British historian and many others have concluded a democracy would not thereafter long last.

So the point that the Senator from Utah makes, I think, is critical to understanding the reasons for our support for a balanced budget amendment. I compliment him for that reference.

Mr. President, by the end of this fiscal year, Congress will have added another \$309 billion to the national debt. It will amount to a total of over \$4.9 trillion, nearly \$19,000 for every man, woman, and child in this country.

Mr. President, \$19,000 is more than the average Arizonan makes in a year. The \$296.8 billion spent to service the debt last year amounted to over \$1,100 per capita. That \$1,100 is enough to pay the tuition of a young man or woman at Arizona State University for a year; enough for a healthy young person in a group plan to buy health insurance for an entire year.

Mr. President, Congress and the President are debt addicts. The addiction is destroying the Nation. Almost 50 cents of every \$1 paid in individual income taxes is required just to pay the interest on the national debt. That is 50 cents of lost opportunity for every income tax dollar paid by hard-working Americans. The overspending makes us feel good today, but Congress is ruining the economic future of generations to come.

Congress has denied its addiction for too long. Many in this Chamber will continue to deny it, claiming that we can balance the budget without the discipline of a balanced budget amendment to the Constitution. That is just not going to happen. Just as it is difficult for drug and alcohol abusers to overcome their habit, it will not be easy for Congress to overcome its addiction. But we can either wait until the addiction destroys the country or we can take action now, suffer some pain, and get on the road to long-term recovery.

The first step to recovery is to admit the problem and seek treatment for it, treatment in the form of a balanced budget amendment to the Constitution. House Joint Resolution 1 will establish the framework and impose the discipline that is so urgently needed to force Congress to put its fiscal house in order. It is the best and the only chance to send a balanced budget amendment to the States for ratification in the immediate future.

Still, it is not the amendment I would have written, not the comprehensive treatment for the problem that I would have prescribed. House Joint Resolution 1 will force Congress

to be more responsible in its budgeting practices. But there is more to responsible budgeting than just balancing the Nation's books. It also matters at what level Congress balances the books relative to the size of the Nation's economy.

For example, gross national product now exceeds \$6 trillion. But no one would be happy if Federal outlays were \$6 trillion, and Federal tax revenues were \$6 trillion, even though the budget would be balanced at \$6 trillion. It matters how much the Government spends in taxes as much as it matters whether we balance the budget. In that regard, House Joint Resolution 1 represents the intensive care treatment, the step needed to stop the hemorrhaging, to ensure recovery over the long term. However, it is a Federal spending limit that is needed.

The balanced budget spending limitation amendment, Senate Joint Resolution 3, which I introduced January 4, including a spending limit, requires a balanced budget and limits spending to 19 percent of the gross national product, which is roughly the level of revenue the Federal Government has collected over the last 40 years.

Mr. President, I will refer to this chart to my right a couple of times during my presentation. But the first thing that you can see by examining the chart is that revenues which are characterized in blue on the chart at this level here, almost uniformly from 1955, denoted on this chart to 1995 here, are at the 19 percent level of gross national product or relative to gross domestic product, 19.5 percent. We can see if we drew a line at 19.5 percent, that blue line is a very close approximation.

That is how much Americans are historically willing to pay into the Treasury. Through bad times and good economically, through Democrat Presidents and Republican Presidents, through times of tax increases and times of tax cuts, it does not matter. It stabilizes very quickly at about 19 percent of the gross national product. That is how much Americans are willing to pay in revenues.

When we say "willing to pay," what do we mean? Just quickly, by way of example, when the Federal Government increases tax rates, what do people do? Do they say, OK, we will simply pay more in taxes, or do they begin to adjust their behavior? Of course, we know the answer. They seek tax shelters. They do other things with their incomes so they do not have to pay as much in Federal income taxes. That is why, even though we increase income tax rates, revenue stabilizes at about that level of 19 percent.

What happens when we cut tax rates? Do revenues go down? No. We know that that stimulates the economy. It produces more gross national product. It produces more income, and even at a lower rate of income tax, more revenue is generated by virtue of that growing economy. It is a lot like the grocery

store putting things on sale. They do not do it to lose money. They know the volume will make up for the reduction of prices; in fact, more than make up for it. That is why you see so many sales.

The bottom line is Americans are willing to pay 19 percent of the gross national product in income taxes. The way to balance the Federal budget is to limit spending to that level of revenues.

As we see the other line, the line that is represented in red, represents the spending as a percent of the gross domestic product on this chart. We can see that 20 or 30 years ago, it was roughly the equivalent of the revenues in the country, whereas in more recent years, the lines, two lines have begun to separate. Today, we have spending in the neighborhood of 22 percent or 23 percent of the gross domestic product, with revenues at 19 percent. That is the gap that needs to be closed with a balanced budget amendment.

Limit spending and there is no need to consider tax increases, obviously. Congress would not be allowed to spend the additional revenue it raised, and knowing politicians as I do, they will not raise taxes just for the heck of it. Link Federal spending to economic growth as measured by the gross national product and an incentive is created for Congress to promote progrowth economic policies. The more the economy grows, the more Congress is allowed to spend, but always proportionate to the size of the economy.

A spending limitation has a further advantage. It reflects the fact that the economy has already imposed an effective limit on revenues relative to GNP. As I said before, despite tax increases and tax cuts, recessions and expansions, and fiscal policies pursued by Presidents of both political parties, revenues as a share of GNP have fluctuated only around a relatively narrow band, between 18 and 20 percent for the last generation. As I said, the primary reason for that is because the Tax Code changes people's behavior. That is why the debate about raising taxes is less important than the debate about limiting spending.

Lower tax rates stimulate the economy, resulting in more taxable income and transactions and more revenue to the Treasury. Higher tax rates discourage work production, savings, and investment, so there is ultimately less economic activity to tax.

Revenues amounted to about 19 percent of GNP when the top marginal income tax rate was in the 90 percent range in the 1950's. They amounted to just under 19 percent of GNP when the top marginal rate was in the 28 percent range in the 1980's. Revenues amounted to about 19 percent of GNP in the 1970's, during one of the longest post-war contractions and during the peacetime expansion of the 1980's. Since revenues remained relatively constant, 19 percent of GNP, the significance of our Nation's tax policy is how Congress

taxes, not how much it can tax. The key is whether tax policy fosters economic growth and opportunity, measured in terms of GNP, or results in a smaller and weaker economy. In other words, 19 percent of a larger GNP represents more revenue to the Treasury than 19 percent of a smaller GNP.

The benefit of writing a spending limitation into the balanced budget amendment is that it would preclude futile attempts by Congress to balance the budget by raising taxes. Raising taxes will merely impede economic growth and harm the Nation's standard of living. A spending limitation provides Congress with the guidance at the outset that there is really only one way to balance the budget, and that is by cutting Government spending. While my preference is that a spending limit be included in the constitutional balanced budget amendment, I believe the issue can only be addressed, if need be, in subsequent implementing or enforcement legislation.

The quest for the perfect in this case should not be an excuse to defeat the very good. The stakes are too high in terms of the mountain of additional debt Congress is passing on to future generations to miss yet another opportunity to send a balanced budget amendment to the States for ratification. Of course, what the Senate has concluded to do is to take up the resolution which was adopted by the House of Representatives by 300 votes, rather than to bring forth our own version of a balanced budget amendment. The reason: To ensure that we can secure passage by both Houses of the same provision and, thus, pass it on to the States at the earliest possible stage.

So if there is insufficient support for inclusion of a spending limit in the amendment itself, I believe Congress should approve House Journal Resolution 1, which we took from the House of Representatives last week and then turn to consideration of the Federal spending limit as a means of implementing the balanced budget requirement.

Mr. President, the Senate has an historic opportunity to ensure that we begin to invest in the future of the country, not just continue to borrow from it. That will take courage, the courage to say no to special interests who benefit from the status quo. We should pass the balanced budget amendment. We should pass it in the form that it passed the House of Representatives. We should then send it on to the States for their ratification, and then we should make a couple of very important points to the States.

Point No. 1, we will not pass on the costs of a high-spending Congress to the States as our way of balancing the budget. We have a plan for achieving a balanced budget, and that plan, I hope, will be adherence to a legislatively adopted implementation guideline of spending limits. Those spending limits could be tied to the gross national product, as I proposed.

We can agree to come down half a percent per year and that will get us to the 19 percent we need to be at within the 6 or 7 years that it will take to adopt a balanced budget amendment. That is a rational, disciplined, proper way to achieve the balanced budget amendment.

Those who say that we should propose our plan before we adopt the discipline of a constitutional balanced budget amendment overlook the fact that we can impose an implementation plan without all of the specifics of every single budget. There is not a one of us here who knows how we are going to balance our own household budget 3 years from now, but we sure enough know we are committing ourselves to the fiscal discipline of doing it.

We also understand the way we have to do it is to conform our spending to our income, and that is what the Congress would be doing by immediately adopting an implementation plan to achieve a balanced budget through spending limitation.

So when our colleague from Utah, the chairman of the Judiciary Committee, Senator HATCH, proudly proclaims that the balanced budget amendment has passed the U.S. Senate, I think the very next thing we should do is to say, "And here is how we are going to do it so that you States who are considering whether to adopt it or not, to ratify it, will know we mean business back here in Congress, we don't mean to pass the costs on to you." That is the second part of the two-part commitment we made to the States. The first part we already adopted as legislation prohibiting unfunded mandates.

So with those kinds of commitments from the U.S. Congress, we can be assured that the States will adopt or ratify a balanced budget amendment to the Constitution and finally put this country on the road to fiscal discipline.

Mr. President, I thank you and certainly thank the chairman of the Judiciary Committee for the many years of hard work he has put into this very important endeavor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to compliment the distinguished Senator from Arizona. I cannot tell you what it means to me to have him on the Judiciary Committee and with his broad background in the House of Representatives as well as here on this amendment.

His suggestions are very valid, and the point that he has made, I think, overwhelms some of the arguments that have been made for tax increases in this body. No matter what we do, that line stays relatively the same, which means tax increases do not always produce more revenues. Sometimes they produce less revenues. We found, as in the case with capital gains, since 1960, every time capital gains rates went up, revenues to the Government went down; every time capital

gains rates went down, revenues to the Government went up. There are \$8 trillion in capital assets locked up out there because people do not want to pay 28-percent capital gains.

But his chart is a very important chart. The distinguished Senator makes a very interesting and good case. I wish that we were able to take some of his ideas and incorporate them in an amendment that could get the broad support that this amendment does have. But to his credit, even though he knows that if we used the 19 percent as a line in order to balance the budget, we would probably be better off if we did that. But he also knows that this amendment is the only one that we have that we can get a widespread consensus on. It is bipartisan. It is an amendment that involves Democrats and Republicans and one that he is willing to help support.

So I personally just want to express to him how much I appreciate him, how much I appreciate his knowledge and his explanations to us of how his approach would work if we could put it through.

I have to say that I could easily support his approach. I think it is a very, very good one, and I want to thank the Senator for being such a stalwart on this issue.

Mr. KYL. Mr. President, may I say, I thank the Senator from Utah for his very kind remarks and look forward to continuing cooperating with him in passing this very important amendment.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL EDUCATION SPENDING

Mr. PELL. Mr. President, I am deeply concerned with the rumors and talk about town regarding cuts in Federal education spending. While the Federal contribution constitutes only about 6 cents of every \$1 spent in education in our country, it is a very concentrated and highly important amount of money. At the postsecondary level, it makes up 75 percent of all the grants, loans, and campus-based aid that enable deserving students to pursue a college education. In elementary and secondary education, it comprises over 60 percent of all the funds that go to help disadvantaged students learn on a level with their peers. To my mind, we should not be looking at cuts in education but, instead, should be examining how we might increase and strengthen the Federal contribution.

One of the education cutbacks receiving greatest attention is the potential elimination of the in-school interest

exemption for students who obtain Federal loans to help finance their college education. Elimination of this exemption would increase student indebtedness by 20 to 50 percent. It would only worsen an already unfortunate trend in which students and their families are having to borrow more and more money. It would be the wrong step in the wrong direction at the wrong time.

Mr. President, as I have stated on many occasions, few things in life are more important than the education of our children. They are the living legacy that we leave behind and their education determines the future of the American Nation.

As part of the possible proposed spending cuts, it has been suggested that the in-school interest subsidy feature of the Federal student loan program be eliminated. This term subsidy is somewhat of a misnomer. What the phrase actually refers to is the in-school interest exemption feature of the loan program. This is a critically important feature of the loan program that shows the Federal commitment of providing help to hard-pressed middle income families. Its elimination, however, is one of the possible funding cuts in education that could be made to help pay for the Contract With America supported by the majority party in the U.S. House of Representatives. Because of this, I thought it very important not only to let my colleagues know of my strong opposition to such a proposal but also to let them know the terrible impact it would have on students who must borrow in order to pay for their college education.

In a recent letter I received, a director of financial aid at an institution in California expressed great concern over this proposed cut. He noted that eliminating the interest exemption feature will compound the already high debt levels of students.

Under the proposed cut, student loan indebtedness will increase from around 17 to 30 percent for the average undergraduate and graduate student. Elimination of the interest exemption feature will also hinder the students' ability to compete and participate in the economic marketplace if they are forced to begin their careers with such increased debt. The end result could well be an economy where college graduates cannot purchase homes or other necessities that are the economic stimulus of our society.

These harsh consequences would especially affect students from middle-class families, those same students for whom the loan program was originally designed. The ability to obtain and repay a loan is a major issue confronting college students. Increasing the amount they will owe when they finish school will most certainly affect students' decisions whether or not to attend college in the first place or go on to graduate school after undergraduate study is completed. Without the in-

school interest exemption, it is estimated that students who are enrolled for bachelors degrees could see their debt burden increase by \$20,000 or more.

For example a student that attends a 4-year college and borrows the maximum amount would owe \$17,125. If interest is charged while the student is in school, the student would owe an additional \$3,407 or \$20,532 upon entering repayment. This 20-percent increase in the amount to be repaid would increase the monthly payment from \$205 per month to \$246 per month. The additional cost over the life of the loan would be about \$5,000.

This proposal is truly penny-wise and pound-foolish. Students who today pursue graduate study would have an enormous increase in what they owe. Those same students have the lowest default rate in the loan program. Increasing their debt burden, however, will certainly increase the risk of default.

The effects on graduate students are even more profound for a student who attends 4 years while earning a bachelor's degree and attends graduate school for an additional 2 years to earn a masters degree. Upon graduation, the student would owe \$34,125. If the interest exemption is eliminated, the student would owe an additional \$9,167 for a total of \$43,292. This represents a 27-percent increase in educational indebtedness and would increase the monthly repayment amount from \$409 to \$520 per month.

Every day families are making decisions about sending their children to college. Certainly one of, if not the major obstacle they face is how to pay for college. The loan is their last resort. It provides the extra but necessary money they must have after exhausting their own resources and obtaining any grants for which their children might be eligible. Increasing the amount their children owe after graduation may well place the dream of a college education beyond their reach. That, to my mind, would be a tragedy of truly immense proportions. In fact, recent studies show that the people who are the most uneasy about borrowing funds are those with low incomes. But these are the same low income students who will turn away from taking the loan because of the monetary increase. Without the funds, an education becomes an unachievable dream.

The proposal to eliminate the in-school interest exemption also comes at a particularly bad time. The cost of a college education continues to escalate at all levels, but particularly in the public sector where a previously affordable education is in danger. State after State has trimmed support for its public institutions. The result: Students and their families have had to pay more through higher tuitions and other related costs.

The need to borrow to pay for a college education is already increasing at an alarming rate. According to a recent study by the American Council on

Education, the volume in the Stafford Loan Program increased by 45 percent last year, and the average loan size grew by nearly 20 percent. The study also found that the increase in borrowing over the past year was far greater than any previous year's increase.

Unfortunately, borrowing is more necessary because we have failed to provide sufficient funding for our grant programs in general and the Pell Grant Program in particular. When we reauthorized the Higher Education Act 3 years ago, we sought to extend Pell grant aid to middle income families, but the sad fact is that funding has been inadequate to accomplish that objective. The consequence has been that more and more American families have been forced to borrow more and more money to pay for a college education. Elimination of the in-school interest exemption will only exacerbate an already worsening situation.

For example, at the University of Rhode Island in my home State, borrowing increased from \$8.2 million in 1988-89 to over \$26.7 million in 1994-95. For the current school year alone, cutting the in-school interest exemption would add another \$2 million in debt burden. That is not the direction in which we should be moving.

Mr. President, I care deeply about the education of our children. If the in-school interest exemption is eliminated, we will be removing an essential and very helpful feature of the federal loan program. I urge my colleagues to talk with college officials in their respective States and to learn just how devastating elimination of the in-school interest provision would be not only to their schools but particularly to their students. I also urge my colleagues to join me in expressing early and strong opposition to such a proposal so that it might be removed from any and all lists of education cuts under consideration.

Mr. HATCH. Mr. President, as in executive session, I ask unanimous consent that nominations to the offices of inspector general, excepting the Office of Inspector General for the Central Intelligence Agency, be referred during the 104th Congress in each case to the committee having substantive jurisdiction over the department, agency or entity, and if and when reported in each case, then to the Committee on Governmental Affairs for not to exceed 20 days.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages

from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-313. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 93-9; to the Committee on Appropriations.

EC-314. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94-02; to the Committee on Appropriations.

EC-315. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC-316. A communication from the Deputy Director of the Defense Security Assistance Agency, transmitting, pursuant to law, the report of the status of loans and guarantees issued under the Arms Export Control Act; to the Committee on Foreign Relations.

EC-317. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report of the analysis and description of services under the Arms Export Control Act; to the Committee on Foreign Relations.

EC-318. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-319. A communication from the President of the United States, transmitting, pursuant to law, the report entitled "Procedures Established for Effective Coordination of Research and Development on Arms Control, Nonproliferation and Disarmament"; to the Committee on Foreign Relations.

EC-320. A communication from the Comptroller General of the United States, transmitting, pursuant to law, notice of the reports and testimony for December 1994; to the Committee on Governmental Affairs.

EC-321. A communication from the Director of the Office of Government Ethics, transmitting, a draft of proposed legislation entitled "Office of Government Ethics Authorization Act of 1995"; to the Committee on Governmental Affairs.

EC-322. A communication from the Acting Executive Secretary of the National Labor Relations Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC-323. A communication from the Director of Communications and Legislative Affairs, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC-324. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-302 adopted by the Council on

July 5, 1994; to the Committee on Governmental Affairs.

EC-325. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-331 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC-326. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-332 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC-327. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-333 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC-328. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-334 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC-329. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-335 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC-330. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-336 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC-331. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-337 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC-332. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-338 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC-333. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-340 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC-334. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-341 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC-335. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-342 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC-336. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-343 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC-337. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-344 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC-338. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-345 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC-339. A communication from the Chairman of the Council of the District of Colum-

bia, transmitting, pursuant to law, copies of D.C. Act 10-346 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC-340. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-347 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-28. A resolution adopted by the Criminal Justice Information Services Advisory Policy Board relative to unfunded Federal mandates; ordered to lie on the table.

POM-29. A concurrent resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"ASSEMBLY CONCURRENT RESOLUTION NO. 133

"Whereas, It is appropriate that California recognize the sacrifices of all the veterans who have given their lives for their country; and

"Whereas, It is also appropriate that California give recognition to those veterans who, as citizens, have distinguished themselves in their community; now, therefore, be it

"Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 101 that is within the city limits of the City of Salinas is hereby officially designated the Veterans' Memorial Highway; and be it further

"Resolved, That the Department of Transportation is directed to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further *"Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation."

POM-30. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Kentucky; to the Committee on the Judiciary.

"SENATE RESOLUTION NO. 15

"Whereas, the right of free expression is part of the United States Constitution, but very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency, as well as orderliness and productive value of public debate; and

"Whereas, certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of expression and sacred values of others; and

"Whereas, there are symbols of our national soul, such as the Washington Monument, the United States Capitol Building, and memorials to our greatest heroes which are the property of every American and are therefore worthy of protection from desecration and dishonor; and

"Whereas, the American flag is a most honorable and worthy banner of a nation which is thankful for its strengths and committed to curing its faults, and remains to millions of immigrants the universal symbol of the American ideal; and

"Whereas, recent decisions by the United States Supreme Court no longer accord to the Stars and Stripes the reverence, respect,

and dignity befitting the banner of that most noble experiment of a nation-state; and

"Whereas, it is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes a proper station under law and decency; now, therefore, be it

"Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

"Section 1. That the Commonwealth of Kentucky respectfully petitions the Congress of the United States to propose an amendment to the United States Constitution, for ratification by the states, specifying that Congress and the states shall have the power to prohibit public physical desecration of the flag of the United States.

"Section 2. That the Clerk of the Senate is directed to send copies of this Resolution to the Clerk of the U.S. House of Representatives, the Secretary of the U.S. Senate, and the members of the Kentucky Congressional Delegation."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI (for himself and Mr. WELLSTONE):

S. 298. A bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. COCHRAN:

S. 299. A bill to amend the Federal Power Act to modify an exemption relating to the territory for the sale of electric power of certain electric transmission systems, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCONNELL (for himself and Mr. ABRAHAM):

S. 300. A bill to reform the civil justice system, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL:

S. 301. A bill to provide for the negotiation of bilateral prisoner transfer treaties with foreign countries and to provide for the training in the United States of border patrol and customs service personnel from foreign countries; to the Committee on Foreign Relations.

By Mrs. HUTCHISON:

S. 302. A bill to make a technical correction to section 11501(h)(2) of title 49, United States Code; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself, Mr. MCCAIN, Mr. BRADLEY, Mr. BROWN, Mr. COATS, Mr. KYL, and Mr. MCCONNELL):

S. 303. A bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SANTORUM (for himself, Mr. BRYAN, Mr. GORTON, and Ms. MOSELEY-BRAUN):

S. 304. A bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. ROBB):

S. 305. A bill to establish the Shenandoah Valley National Battlefields and Commission

in the Commonwealth of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN:

S. 306. A bill entitled the "Television Violence Reduction Through Parental Empowerment Act of 1995"; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY:

S. 307. A bill to require the Secretary of the Treasury to design and issue new counterfeit-resistant \$100 currency; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMPSON (for himself, Mr. ROCKEFELLER, Mr. THURMOND, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. CRAIG, Mr. GRAHAM, and Mr. AKAKA):

S.J. Res. 26. A joint resolution designating April 9, 1995, and April 9, 1996, as "National Former Prisoner of War Recognition Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself and Mr. WELLSTONE):

S. 298. A bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes; to the Committee on Labor and Human Resources.

THE EQUITABLE HEALTH CARE FOR SEVERE MENTAL ILLNESS ACT OF 1995

Mr. DOMENICI. Mr. President, today I rise to introduce a bill I have introduced in the past, and which has always attracted the support and encouragement of a wide variety of my distinguished colleagues. This bill is called the Equitable Health Care for Severe Mental Illness Act of 1995. It was written because a situation exists in this country that I believe cannot continue, and this situation impacts upon some of the most vulnerable individuals in society. I am speaking of the those individuals who have been diagnosed as having a severe mental illness.

For so long, society shunned these individuals out of fear, ignorance, or misunderstanding, and the afflicted and their families suffered in silence. Because society didn't know what caused these illnesses, they could only assume that the strange and perplexing behavior was the result of some action; a punishment for some sin; or a weakness or frailty in character. In the past, those suffering from mental illness were locked up, tried as witches, or banished from society for being possessed by demons or evil spirits. As late as 1972 in this country, many States singled out the mentally ill, institutionalized them, and subjected them to systematic sterilization, often without their consent or knowledge. Ignorance of these illnesses bred contempt, and the sick were seen as criminals. Some just say, "why don't they just stop acting that way?"

Thankfully, today we know better. With our increasing understanding of the human body and the composition of the brain, we have come to learn a truth far different from the super-

stitions of the past. We have learned that there are physiological, chemical, and biological reasons for this behavior, and that these circumstances are far beyond an individual's control. We have also learned that these illnesses are treatable, and that with the right combinations of medicinal and behavioral therapy, these people can be helped, and can frequently lead a life as normal as yours or mine.

But mental illness continues to exact a heavy toll on many, many lives. Even though we know so much more about mental illness, it can still bring devastating consequences to those it touches; their families, their friends, and their loved ones bear this as well. These individuals and families not only deal with the societal prejudices and suspicions hanging on from the past, but they must also contend with a structural, systematic discrimination that most often bars them from getting the care they need and deserve. The advancement in our knowledge of these illnesses has not been accompanied by a change in the policies of most health care insurers. Consider the following facts for a moment:

MENTAL ILLNESS—A WIDESPREAD DISEASE

One person out of every five—more than 40 million adults—in this Nation will be afflicted by some type of mental illness.

Schizophrenia alone is 50 times more common than cystic fibrosis, 60 times more common than muscular dystrophy and will strike between 2 and 3 million Americans.

Among children and adolescents, nearly 7.5 million, or 12 percent, suffer from one or more mental disorders.

DISCRIMINATION IN HEALTH INSURANCE

Only 2 percent of Americans with private health care coverage have policies that adequately and fairly cover severe mental illnesses.

Health care reform plans designed to make health care more accessible and affordable would continue the discrimination prevalent in private health insurance today. Many plans: allow 365 days for inpatient physical care but only 45 days of inpatient psychiatric care; provide unlimited coverage of office visits for physical care but only 20 visits for psychiatric care; and provide up to \$1 million in lifetime coverage for physical care but only \$50,000 lifetime coverage for mental health care. These are discriminations that we cannot let continue, especially if we reform the health care programs, and more particularly if we reform the insurance programs of our Nation.

Furthermore, we find that only 10 percent of all insurance policies have coverage for partial hospitalization, despite proven success in producing good outcomes while controlling costs with persons with mental illness, and 60 percent of health maintenance organizations and preferred provider organizations completely exclude coverage of some treatments for severe mental illness.

Some will immediately say we cannot afford it or that inclusion of this treatment will cost too much. But let us take a look at the efficacy of treatment for these individuals, especially when compared with the success rates of treatments for other physical ailments. For a long time, many who are in this field—especially on the insurance side—have behaved as if you get far better results for angioplasty than you do for treatments for bipolar illness.

Let me give you some facts as to efficacy of treatment in the United States today. Treatment for bipolar disorders—that is, those disorders characterized by extreme lows and extreme highs—has an 80 percent success rate if you get treatment, both medicine and care. Schizophrenia, the most dread of mental illnesses, has a 60-percent success rate in the United States today if treated properly. Major depression has a 65 percent success rate.

Let me remind everybody that when we speak of schizophrenia or manic depression, frequently we think these are the dredges of society. I would like to remind everyone that some of the greatest men and women in all of history were manic depressives. Let me give you a few: Winston Churchill. Unquestionably, he would be diagnosed today as manic depressive because he had those extreme highs, when he said he never slept and he sat around and wrote history books, and all of a sudden the black hole, 3, 4 months in a state of depression. He was able to cope with it. Most human beings with that kind of illness cannot quite cope with it. They are not dredges or imbeciles, they are not the low intellectual people. In fact, quite to the contrary.

Compare this with commonly reimbursed treatments for cardiovascular diseases. Let us talk about that for a minute.

Angioplasty has a 41-percent success rate. Treatment for schizophrenia, the dread disease, has a 60-percent success rate. We can go on with many of the other ones. There is a 52-percent effective rate for atherectomy, one of the very important kind of treatments that everybody thinks we ought to be doing.

Furthermore, the National Institutes of Mental Health estimates that primary preventive care will add \$6.5 billion annually to the overall cost of mental health care. This will be offset by an overall savings of about \$8.7 billion to society. That is a \$2.2 billion savings. The Federal Government alone spends approximately \$14 billion each year for disability payments to these individuals—25 percent of all disability payments. Clearly, helping these individuals early on with medical treatment not only makes the distribution of health care services fair, but also saves the Government and society money over the long term.

So you can see why I feel it is a necessity that we do something to resolve this situation. Frankly, without some

relief, the mentally ill will continue to be denied the treatment they need. The problems associated with nontreatment will continue to escalate and these individuals will continue to operate on the margins of society.

The Equitable Health Care for Severe Mental Illness bill I am introducing, along with Senator WELLSTONE today, seeks a very simple goal: To provide, in whatever health care reform package is eventually enacted, that the Congress and the President coverage for treatment of these individuals that is commensurate with individuals that are treated and cared for with other diseases. Let me repeat that. Equity just means you will treat mental illness under insurance policies and the like just like you are treating a heart condition, a kidney condition, or whatever physical condition that we have learned to cover. And we will use the same kind of terms of medical necessity which governs and bounds the kind of treatment that is forthcoming for those illnesses.

In 1990, Congress passed and President Bush signed the Americans With Disabilities Act, recognizing that there are individuals in society whose physical needs require special protection under the law. We determined that, because of conditions beyond their control, disabled Americans, many of them, their access to services and facilities had to be made available on an unrestricted, nondiscriminatory manner. We recognize that this constituted an infringement on their civil rights when treated otherwise. We did the right thing in trying to be helpful. I believe it is time we should view severe mental illness in this same light and do the right thing here, as well.

We must take steps to protect these citizens from unfair treatment and systematic discrimination. As I circulate this bill, which I now send to the desk, and ask that it be appropriately referred, and as I circulate it to fellow Senators, I hope they will seriously consider it. It is one of the severe and serious discriminations in this society that remains alive. Why do insurance companies not cover it in broader scope? Because one insurance company eliminated it and they were able to reduce their premiums. Then another company decided if they want lower premiums, they must reduce the mental health care coverage, and on and on it went until now the situation is as I have described.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL INSTITUTE OF MENTAL HEALTH REPORT ON MENTAL ILLNESS IN AMERICA—HIGHLIGHTS

Number of people suffering from mental illness: 2.8 percent of the nation's adult population. Approximately 5 million people.

Cost of equitable coverage for severe mental illness:

Will add only \$6.5 billion in new health care costs.

Will be offset by \$8.7 billion reduction in health care costs and costs to society.

Will yield an aggregate \$2.2 billion savings for the nation.

How effective are treatments for severe mental disorders?

Panic Disorder: 80 percent success rate.

Bipolar Disorder: 80 percent success rate.

Major Depression: 65 percent success rate.

Schizophrenia: 60 percent success rate.

Obsessive Compulsive: 60 percent success rate.

How effective are treatments for commonly reimbursed cardiovascular disorders?

Angioplasty: 41 percent success rate.

Atherectomy: 52 percent success rate.

Costs to federal government? People with severe mental disorders account for 25 percent (or approximately \$14 billion) of all federal disability payments (Social Security Insurance and Social Security Disability Insurance).

Mr. KENNEDY. Mr. President, I urge all of my colleagues to pay close attention to the interventions of the Senator from New Mexico. I think for all of us who care about health care know he has been tireless on the whole issue of mental health which is affecting families in this country. All of us are in his debt for all of the good work he does in this area. He has been and is a tireless proponent of the mentally challenged, and we are grateful for his leadership.

Mr. WELLSTONE. Mr. President, I am pleased to join my colleague, Senator DOMENICI, to introduce legislation on an issue that I feel so strongly about—equitable health care coverage for mental illnesses.

Let me say first that it has been a real honor to work with Senator DOMENICI as cochair of the Senate Working Group on Mental Health and I look forward to building on the tremendous progress we made last year.

For far too long, mental health and substance abuse have been put in parentheses. We didn't want to talk about it and we didn't want to take it seriously. The stigma of mental illness and substance abuse has kept many in need from seeking help, and has prevented policymakers from providing it.

While we failed to enact comprehensive health care reform during the last Congress, we did make great strides in terms of increasing awareness and understanding of the importance of parity, flexibility, and a full range of comprehensive mental health benefits.

As cochair of the Senate Working Group on Mental Health I am proud of the work we did last year. But we must act this year on the issues that we were so successful at bringing to the forefront of the debate and at reaching bipartisan agreement on.

We have a tremendous body of new evidence proving that without a doubt mental health and substance abuse disorders are diagnosable and treatable in a cost-effective manner. In fact, we can now show that within a very short period of time it costs less to treat these disorders directly and appropriately than not to treat them at all. We can say this is true based on studies of

every sector of our population: Insured and employed, uninsured and unemployed, people who now use the private system and those who now use the public system.

Mental illness and substance abuse have touched many of our families and friends. And for this reason and many others this is not a partisan issue. Americans do not see a distinction between mental and physical illnesses, and they do not want them treated differently. I am proud to cosponsor this legislation, which would make it the policy of the Federal Government to provide coverage for the treatment of severe mental illnesses that is commensurate with that provided for other major physical illnesses in any form of health care reform that is enacted by Congress and the President.

And, most of all, I look forward to continuing to work with Senator DOMENICI to end discrimination against this very vulnerable population and their families. After all, it's only old data and old ideas that keep us from covering mental health and substance abuse the same way we cover any other real illness, whether acute or chronic.

By Mr. McCONNELL (for himself and Mr. ABRAHAM):

S. 300. A bill to reform the civil justice system, and for other purposes; to the Committee on the Judiciary.

THE LAWSUIT REFORM ACT OF 1995

Mr. McCONNELL. Mr. President, our civil justice system is unable to adequately serve the people who need it. Our legal system, over the last 30 years, has become inefficient, costly and unpredictable. People who need a forum to resolve a dispute find less and less satisfaction in our courts; they face interminable delays, contentious proceedings, and decisions that too often seem neither fair nor just. We must bring needed change to the courts before Americans lose confidence in one of the crucial pillars of our democracy.

Today I am introducing the Lawsuit Reform Act of 1995, designed to start the process for reforming our litigation system. The bill is intended to reduce some of the rewards that now exist for bringing a lawsuit and to introduce some incentives to resolve cases without resort to litigation.

Let's face it, Americans are sue happy. The United States has become a litigation prone society, with far reaching consequences: Too many lawsuits and clogged courts hurt the U.S. in the international marketplace. And, the threat of lawsuits impedes innovation and invention.

That our Nation has become a society of people too willing to sue each other is also a symptom of moral decay. Too often, we try to blame someone else for our situation, and with a lawsuit, we try get that someone else to foot the bill. So, we have to get rid of the incentives for suing, and we have to ensure that those who do

suffer losses get compensated fairly for those losses. The courts need to be available for those who have real disputes, and rationality, civility and fairness must be restored to our legal system.

The bill contains a number of provisions, some of which I have introduced in previous Congresses. Other provisions represent bold new directions for our legal system. For example, reform of attorney contingent fee arrangements—that is, limiting contingent fees to that portion of an award for which the attorney undertook risk and added value—will restore the balance to the lawyer-client relationship. It will remove the enormous financial stake trial lawyers now have in their clients cases, and it will significantly reduce the \$13 to \$15 billion paid in contingency fees. Incidentally, this provision has the endorsement of legal scholars from Judge Robert Bork to Normal Dorsen.

Another provision, early offer and recovery, will put more money in the hands of injured parties more quickly and effectively. In return for refraining from a lawsuit, an injured party would get all of his or her economic losses paid by the responsible parties. This mechanism has the potential to break the link between the litigation system and the overuse and abuse of the health care system. If an injured party gets a commitment to have all of his or her expenses paid, then there is no incentive to inflate expenses by making unnecessary trips to the doctor. And the 57 cents of every dollar spent in the litigation system as transaction costs associated with lawyers will be significantly decreased. Injured plaintiff will get much more than 43 cents of every dollar now spent on litigation.

The bill contains a loser-pays provision, restricted only to those who can afford to assume the risk of having to pay their opponent's legal fees. And, the bill includes needed limitations on punitive damages, reforms to the collateral source rule and an end to joint and several liability.

Mr. President, I am pleased to be joined in this effort by Senator ABRAHAM. Although he is new to the Senate, he has extensive experience on this issue. Our bill contains some bold initiatives for reform. These changes will make a real difference in the legal system.

I am including in the RECORD a summary of the bill, and I will return to the floor on a regular basis to highlight the problems with our legal system and the reforms needed. I look forward to the Senate tackling legal reform in this Congress.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF LAWSUIT REFORM ACT OF 1995 THE PROBLEM

Over the last 30 years, the American civil justice system has become inefficient, unpredictable and costly. Those who need the court system to resolve their disputes face interminable delay, much of which can be blamed on frivolous lawsuits clogging the courts or upon unreasonable litigation when a settlement could be achieved.

The threat of lawsuits impedes invention, innovation and the competitive position our nation has enjoyed in the world marketplace. No nation is as litigious as the United States.

It is imperative that we restore rationality, certainty, fairness and civility to our legal system. For too long, a group of trial lawyers have prevented efforts to bring reasonable change to the legal system. Many of those who practice in our nation's courts have a vested interest in maintaining the status quo. But just as decisions about war are too important to leave to the generals, legal reform is simply too important to leave to the lawyers.

The Lawsuit Reform Act of 1995 contains a variety of options for reforming the civil justice system.

ACCOUNTABILITY IN ATTORNEYS' FEES

The legal system can be arcane and foreign to all but those who make it their occupation. Consequently, clients must rely on lawyers not only to handle their legal needs but even to tell them what their legal needs are. As a result, lawyers, like other experts in similar situations, are by the nature of their work well positioned to take advantage of those who come to them for assistance.

Most lawyers do not misuse their position. Unfortunately, however, some do. Moreover, the organized bar, which has been set up to serve as the principal mechanism for regulating such abuses, has frequently—sometimes for good reason—had considerable difficulty in drawing the line between acceptable and unacceptable conduct.

One key area where these problems are apparent is in the standard practice of taking tort cases on a contingent fee basis. Contingent fees play an important role in allowing plaintiffs to bring suit if their cases are legitimate, their chances of recovery uncertain, and their resources limited. But they have no place even where a plaintiff has limited resources if the recovery is a virtual certainty. Many tort cases are of the latter type, and the lawyers who take them know it. Nevertheless, the lawyers still take them on a contingent fee basis and collect very large fees because the plaintiff does not know it.

This section is designed to put some balance in the lawyer-client relationship. First, it requires that attorneys disclose fee arrangements to the potential client and inform the client that the contingent fee is not mandatory but an option.

In addition, it limits the collection of a contingent fee by an attorney to that portion of the award which was achieved by the attorney's work and undertaking of risk. It uses the party's own behavior to determine which portion of the award that should be by setting out limits on the attorney's contingent fee when a settlement is offered: if the attorney is retained to advise the claimant on the settlement offer, the attorney will be precluded from charging a contingent fee; if the attorney's representation results in an increased offer, the attorney may charge an hourly or contingent fee, not to exceed 20% of the increase in the offer; if the attorney obtains the settlement offer, the contingent fee will be limited to 10% of the first \$100,000 and 5% of any additional amount. If the case goes to trial, the attorney's contingent fee

could only be based upon the amount of the award that exceeds the settlement offer. The effect is to limit the attorney contingent fee to that portion of the case to which the attorney adds value.

Another provision requires judges, under Federal Rule of Civil Procedure 11, to impose sanctions on attorneys who file frivolous pleadings. Rule 11 was weakened in 1992 to give judges the discretion to impose sanctions.

The final provision of this section introduces loser pays in tort cases where the plaintiff seeks damages for physical or mental injury, property damage or other economic loss.

In virtually every western nation except the U.S., the loser pays for the costs of litigation. Within our own legal system, we have dozens of fee shifting laws. But these have become "one way" shifting, allowing only prevailing plaintiffs to recover their attorneys' fees from losing defendants.

This provision restores some balance in the system by setting up a two way fee shifting that requires either losing party in a tort case to pay the other's attorney's fees.

The loser pays rule is limited to the amount of fees owed by the loser to its own attorney. And the loser pay rule will not apply to those individuals and small businesses which can least afford to pay. In addition, courts would retain discretion to refuse to award attorneys' fees or reduce the award if it would be in the interests of justice.

EARLY OFFER

A lawsuit can be avoided if the injured party gets fully compensated quickly. Moreover, a defendant may be willing to pay compensation but is prevented from doing so by the need to make an offer that will also pay the plaintiff's lawyer handsomely. This section creates sufficient incentives for a prompt compensatory settlement that should overcome this obstacle.

First, it sets up a mechanism allowing the potential plaintiff to notify the potential defendants of the injury and the compensation necessary. The potential defendant will then be allowed to make an early offer to pay all economic losses, including future economic losses; if it is accepted, the matter is resolved without a lawsuit. If the plaintiff elects to prove the elements of the case beyond a reasonable doubt, including that the defendant was grossly negligent or intentionally caused the injury, the plaintiff will not be foreclosed from bringing a lawsuit.

FAIR SHARE ASSESSMENT OF DAMAGES

Defendants' liability, in the American legal system, is often based upon the ability to pay and not on the degree of responsibility. The doctrine of "joint and several liability" permits a plaintiff to recover the entire damage award from any of the defendants sued. If one defendant is judgment-proof, but was 80% responsible, the plaintiff can still get the entire judgment paid by another defendant, even though that defendant was significantly less responsible.

This section reforms the doctrine of joint and several liability and permits recovery from a defendant only for damages attributable to the person's share of responsibility. It applies to tort cases where the plaintiff seeks damages for physical or mental injury, property damage or economic loss.

ELIMINATE DOUBLE RECOVERIES

A plaintiff can recover damages without regard to money the plaintiff may be receiving from other sources, such as disability insurance or a wage continuation program.

This section would put an end to these double recoveries by prohibiting the inclusion of these collateral sources from the proof of damages. And it prohibits subrogation

claims by the entities providing these collateral source payments. This provision applies to tort cases where the plaintiff seeks damages for physical or mental injury, property damage or economic loss.

PUNITIVE DAMAGES AS PUNISHMENT, NOT WINDFALL

Those accused of a crime have constitutional protection; they are informed of the charges against them and know the punishment they face.

In many cases, civil defendants face punitive damage awards that bear no relationship to the concept of punishment and deterrence and are designed to further compensate the plaintiff and his or her attorney. A reasonable limit on punitive damages will serve the public policy objective of punishment and deterrence. The bill limits punitive damages in tort cases where the plaintiff seeks damages for physical or mental injury, property damage or economic loss, to the greater of \$250,000 or three times compensatory damages.

ALTERNATIVE DISPUTE RESOLUTION

Encouragement of ADR should be a focus of any civil justice reform effort. However, ADR should not become another procedural hurdle for litigants.

This section creates voluntary binding ADR. It requires, in all federal question and diversity cases, parties be told by their attorneys of ADR options. If parties agree to ADR, then they are bound by its results.

ENSURING EXPERT WITNESSES HAVE EXPERTISE

Too often, parties in a lawsuit bring in a witness asserted to be an "expert" to offer an opinion which supports a particular theory of the case. The 1975 Federal Rules of Evidence—in allowing any expert testimony that might be "helpful" to the jury—depart from the traditional standard: that expert testimony should only be admitted if its basis has "gained general acceptance in the particular field." The result has been a slippery slope to junk science finding its way into courtrooms across the nation.

This section is designed to ensure the expert witness actually has some expertise in a recognized field, and it will require the disqualification of any expert witness whose compensation is linked to the outcome of the case.

PRIVATE RIGHTS OF ACTION

Too many judges have a tendency to imply a private right of action in a law where Congress does not explicitly create it. The result is excessive litigation and a power grab by the courts never intended by Congress.

This section creates a rule of construction that federal laws which do not expressly contain a private right of action should not be interpreted to imply one.

"OPT OUT" BY THE STATES

States will retain the right to opt out of any one or more of the provisions of this Act by affirmatively enacting legislation to opt out.

• Mr. ABRAHAM. Mr. President, it is my great pleasure to cosponsor the Lawsuit Reform Act of 1995.

Last fall's election was about change. And if ever there was an area in need of change, it is the current state of our legal system.

The current system doesn't work. It is arbitrary and imposes excessive costs and long delays. It must be reoriented to bring about the proper objectives of any legal system: swift justice and fair results.

Moreover, our litigation explosion is hurting U.S. competitiveness and sti-

fling innovation with the high costs of lawsuits and damage awards in our courts. The costs are estimated to reach \$300 billion annually—about 4.5 percent of the Nation's \$6.7 trillion gross domestic product. These costs are passed on to consumers, making legal system their enemy rather than their ally.

It is time for an overhaul of the system. The McConnell-Abraham Lawsuit Reform Act of 1995 signals the beginning of my efforts to help bring about that overhaul.

The McConnell-Abraham Lawsuit Reform Act is principally aimed at one aspect of the litigation problem. Our current system contains insufficient incentives to reward settlements, and insufficient penalties for litigating to the hilt disputes that should be able to be worked out.

One cause of this is that as litigation has been exploding, more and more lawyers have sought to maximize their fees at the expense of their clients' best interests. And while the legal profession has made attempts at self-regulation, it has been largely unsuccessful in stopping this trend.

The McConnell-Abraham Lawsuit Reform Act of 1995 takes an extremely innovative approach to this problem. It empowers clients in personal injury cases by creating incentives for potential plaintiffs and defendants to get together and settle meritorious cases. It also reduces lawyers' incentives to discourage settlements by barring them from charging contingent fees in cases where recovery is all but certain. And it creates penalties for frivolous litigation, ranging from mandatory sanctions for frivolous filings to a "loser pays" rule in certain classes of cases.

In short, the McConnell-Abraham Lawsuit Reform Act of 1995 will bring our legal system closer to accomplishing its central purposes: swift and certain redress for the meritorious claimant and penalties for abusive litigation. Therefore I am proud to join the distinguished Senator from Kentucky as an original cosponsor of this excellent piece of legislation. •

By Mr. KYL:

S. 301. A bill to provide for the negotiation of bilateral prisoner transfer treaties with foreign countries and to provide for the training in the United States of border patrol and customs service personnel from foreign countries; to the Committee on Foreign Relations.

THE CRIMINAL ALIEN TRANSFER AND BORDER ENFORCEMENT ACT OF 1995

Mr. KYL. Mr. President, today, I am introducing the Criminal Alien Transfer and Border Enforcement Act of 1995, legislation to make it easier to return criminal aliens back to their country of citizenship to serve out the remainder of their sentences. I was an original cosponsor of similar legislation introduced in the House last year by Representative STEVE HORN of California. Representative HORN reintroduced this

legislation in the 104th Congress on January 18. His hard work in this area is very much appreciated.

The Criminal Alien Transfer and Border Enforcement Act advises the President to renegotiate bilateral prison transfer treaties with countries which have large numbers of alien criminals in U.S. prisons. The elimination of any requirement of prisoner consent would be a primary focus of the renegotiation. As an incentive to renegotiate their treaties, this bill would allow foreign governments that renegotiate and comply with a new treaty to send their law enforcement personnel to the Border Patrol and Customs Service academies where an integrated approach to drug interdiction and border management would be developed.

The tremendous financial burden that the Federal Government and States incur to imprison criminal aliens continues to grow. The Bureau of Prisons, for example, estimates that the incarceration of criminal aliens in U.S. and State prisons costs U.S. taxpayers approximately \$1.2 billion a year. Criminal aliens make up about 24 percent of the total 91,000 Federal prison population. At a cost of \$20,803 per Federal prisoner, taxpayers from Maine to California to Arizona are footing the bill to incarcerate these criminals. A national approach to returning these criminal aliens home and eliminating these costs must be developed.

On a State level, Arizona knows all too well about these costs. According to the Arizona Department of Corrections, the number of criminal aliens in Arizona State prisons has increased from 596 in 1984 to 2,066 as of December 31, 1994, a 250-percent increase. Criminal aliens comprise 10.4 percent of Arizona's inmate population; that compares to a State criminal alien inmate population of 4 percent nationally. Those 2,066 criminals cost Arizona taxpayers \$16,020 each, or nearly \$40 million in total last year.

The logical way to reduce these costs would be to work out an agreement where a country would except the responsibility for taking its own citizens back and ensuring that the prison term is completed before the individual is released back into his or her own country. But, current bilateral prison transfer treaties allow criminal aliens to choose whether they will serve time in the United States or their country of citizenship. As a result, the criminal can circumvent any agreement worked out between two countries or a State and foreign government. This must change.

Our Nation's citizens are shocked when they hear that this is how our Nation's prison transfer treaties work. For example, in June of 1994 I had a constituent from Phoenix write me with some good suggestions about immigration reform. In the letter he said, "Can you enlighten me as to whether or not we have a law on the books

which definitely requires the deportation of aliens who commit and are convicted of felonies? * * * [Someone] told me that once the alien is convicted of a felony, he is immediately deported to the country of origin with no appeals process and no bail."

My answer to him was that this is how it should work but, because of the way our bilateral prison transfer treaties are written, I reemphasize, criminal aliens choose whether or not they are deported to their own country to serve out their sentences.

Arizona has been particularly negatively impacted by this aspect of prison transfer treaties, specifically the United States-Mexico Prison Transfer Treaty. Gov. Fife Symington and Department of Corrections Director Sam Lewis have been working with Mexican authorities and the State Department to return some Mexican inmates to serve their sentences in Mexico. But, without the elimination of the prisoner consent provision of the outdated United States-Mexico Prison Transfer Treaty, the likelihood of their return is minimal. "Of those who we have determined to be eligible under the present [voluntary repatriation] criteria, 5 percent or less have demonstrated any willingness to return [to Mexico]," said DOC Director Lewis in a recent conversation.

Something is clearly wrong when States such as Arizona, which have ideas about how to reduce the burden of incarcerating illegal aliens, are kept from doing so because the criminal does not like the idea of serving time in the prison system of his or her country.

Mr. President, this problem is not going away. The INS estimates that as of October 1992, approximately 3.4 million illegal aliens were in this country and, according to INS, that number is growing by about 300,000 yearly. In the Tucson border sector of Arizona alone, illegal immigrant apprehensions for the month of January are up 80 percent over the same period last year.

I ask unanimous consent that a table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Arizona Department of Corrections—Estimates of Alien Inmate Population and Annual Per Capita Costs

Date	Aliens—estimated number	Annual per capita cost
12/31/94	2,066	16,020
6/30/94	1,968	16,020
6/30/93	1,791	15,773
6/30/92	1,602	15,979
6/30/91	1,422	16,457
6/30/90	1,289	16,143
6/30/89	1,153	16,174
6/30/88	1,040	15,717
6/30/87	957	16,321
6/30/86	774	15,497
6/30/85	684	13,882
6/30/84	596	NA

Mr. KYL. Mr. President, nearly 600 illegal immigrants are arrested every day in Nogales, AZ. These statistics will most likely set an all-time illegal immigrant apprehension arrest record for Arizona.

Ensuring that adequate resources are allocated to stop these aliens at the border is the most important step we can take toward halting illegal immigration in this country. Renegotiating prison transfer treaties is another important step and one that will free up Federal and State dollars to go toward effective border control.

We are a land of legal immigrants and we should be proud to be and say so. But, no American, foreign-born or U.S.-born, believes we should be a land of criminal and illegal immigrants. The Criminal Alien Transfer and Border Enforcement Act will provide a necessary step to ensuring that we do not become a nation of illegal and criminal aliens. Mr. President, I encourage my colleagues to join me in urging the President to renegotiate our Nation's bilateral prison transfer treaties and to cosponsor this bill.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Alien Transfer and Border Enforcement Act of 1995".

SEC. 2. PURPOSE.

The purpose of this Act is to relieve overcrowding in Federal and State prisons and costs borne by American taxpayers by providing for the transfer of aliens unlawfully in the United States who have been convicted of committing crimes in the United States to their native countries to be incarcerated for the duration of their sentences.

SEC. 3. FINDINGS.

The Congress makes the following findings:

(1) The cost of incarcerating an alien unlawfully in the United States in a Federal or State prison averages \$20,803 per year.

(2) There are approximately 58,000 aliens convicted of crimes incarcerated in United States prisons, including 41,000 aliens in State prisons and 17,000 aliens in Federal prisons.

(3) Many of these aliens convicted of crimes are also unlawfully in the United States, but the Immigration and Naturalization Service does not have exact data on how many.

(4) The combined cost to Federal and State governments for the incarceration of such criminal aliens is approximately \$1,200,000,000, including—

(A) for State governments, \$760,000,000; and
(B) for the Federal Government, \$440,000,000.

SEC. 4. PRISONER TRANSFER TREATIES.

Not later than 90 days after the date of enactment of this Act, the President should begin to negotiate and renegotiate bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirement of prisoner consent to such a transfer.

SEC. 5. CERTIFICATION.

The President shall certify whether each prisoner transfer treaty is effective in re-

turning aliens unlawfully in the United States who are incarcerated in the United States to their country of citizenship.

SEC. 6. TRAINING OF BORDER PATROL AND CUSTOMS PERSONNEL FROM FOREIGN COUNTRIES.

Subject to a certification under section 5, the President shall direct the Border Patrol Academy and the Customs Service Academy to enroll for training certain foreign law enforcement personnel. The President shall make appointments of foreign law enforcement personnel to such academies to enhance the following United States law enforcement goals:

(1) Drug interdiction and other cross-border criminal activity.

(2) Preventing illegal immigration.

(3) Preventing the illegal entry of goods into the United States (including goods the sale of which is illegal in the United States, the entry of which would cause a quota to be exceeded, or goods which have not paid the appropriate duty or tariff).

By Mrs. HUTCHISON;

S. 302. A bill to make a technical correction to section 11501(h)(2) of title 49, United States Code; to the Committee on Commerce, Science, and Transportation.

NONCONSENT TOW LEGISLATION

• Mrs. HUTCHISON. Mr. President, last year, the 103d Congress preempted State regulation of intrastate trucking, which was a proper policy that had my full support. However, in its breadth, deregulation swept local government regulation of tow trucks into its net, leaving local governments uncertain about their rules governing the area of nonconsent tows.

Nonconsent tows occur at the scene of an accident where the owner is unable to give consent to towing, and when a car is towed from private property without the knowledge or consent of the owner. Local regulation of emergency nonconsent tows is aimed ostensibly at protecting the motoring public at the scene of an accident to prevent a swarm of tow truck operators. Local regulation of private property nonconsent tows are consumer protection rules which generally go to how much a nonconsent tow from private property will cost and where the car can be taken.

After the passage of trucking deregulation, Senator GORTON and I introduced legislation to roll back the preemption of deregulation over tow trucks and transporters of recyclable materials. The bill passed in the Senate but was changed in the House; the legislative clock ran out before identical versions could be passed in both houses.

Trucking deregulation went into effect on January 1 and local governments have moved to comply with deregulation of towing price, route and service; however, there is still a great deal of confusion throughout local jurisdictions around the country regarding the degree to which cities can regulate nonconsent tows. Some city councils, such as the city of Houston's, have chosen to impose a 120-day moratorium on changing their regulations until

Congress has had a chance to act in this area and clarify local authority.

The legislation I introduce today provides that clarification. It states that tows made at the request of a law enforcement officer or without the prior consent of the owner are not subject to the terms of the intrastate trucking deregulation, retroactive to January 1, when deregulation took effect. This will permit cities to continue rate regulation for nonconsent tows, which protects consumers that have little or no negotiating power in nonconsent tow situations. It will also permit them to utilize a system of selection for emergency nonconsent tows, if they so choose.●

By Mr. LIEBERMAN (for himself, Mr. MCCAIN, Mr. BRADLEY, Mr. BROWN, Mr. COATS, Mr. KYL, and Mr. MCCONNELL):

S. 303. A bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE BIOMATERIALS ACCESS ASSURANCE ACT OF 1995

● Mr. LIEBERMAN. Mr. President, I am introducing today, together with Senator MCCAIN and others the Biomaterials Access Assurance Act of 1995. This bill directly addresses a major threat to many of the miracles of modern medicine. By taking this small step now, millions of Americans will no longer have to worry about the supply of life-saving medical devices.

Over the next few years, public health may be seriously jeopardized if makers of the life-saving medical devices that we take for granted today are no longer able to buy the raw materials and components necessary to produce their products. The reason is an all too common one nowadays—an out-of-control product liability system.

How could this happen? Last year, as chairman of the Subcommittee on Regulation and Government Information, I held a hearing to examine this problem. Witness after witness pointed out that the current legal system makes it too easy to bring lawsuits against raw materials suppliers and too expensive for those suppliers to defend themselves—even when they were not at fault and end up winning. Because of this, many suppliers have decided that the costs of defending these lawsuits are just too high to justify selling raw materials to the makers of implantable medical devices. In short, for those suppliers, it just isn't worth it.

How could this happen? A recent study by Aronoff Associates paints a clear, but dismal, picture. That study surveyed the markets for polyester yarn, resins such as DuPont's Teflon, and polyacetal resin such as DuPont's Delrin. The study showed that sales of these raw materials for use in manufacturing implantable medical devices was just a tiny percentage—0.006 per-

cent—of the overall market—\$606,000 out of total sales of over \$11 billion.

In return for that extra \$606,000 in total annual sales, however, that raw material supplier, like others, faced potentially huge liability related costs, even if they never lose a lawsuit. To take one example, a company named Vitek manufactured an estimated 26,000 jaw implants using about 5 cents worth of DuPont Teflon in each device. The device was developed, designed and marketed by Vitek, which was not related to DuPont. When those implants failed, Vitek declared bankruptcy, its founder fled to Switzerland and the patients sued DuPont. DuPont has won virtually all these cases—one of the last cases was dismissed earlier this month—but the cost has been staggering. The study estimated that DuPont alone has spent at least \$8 million per year over 6 years to defend these suits.

To put this into perspective, DuPont's estimated legal expenses in these cases for just 1 year would buy over a 13-year supply of DuPont's Dacron polyester, Teflon and Delrin for all U.S. makers of implantable medical devices, not just makers of jaw implants.

Faced with this overwhelming liability, DuPont decided 2 years ago to stop selling its products to manufacturers of permanently implanted medical devices. DuPont has subsequently allowed manufacturers to purchase up to 3 more years worth of raw materials.

One supplier's decision alone might not be troublesome except that there is no reason to believe that the economics will be different for other suppliers around the world. One of the witnesses at the hearing testified that she has already contacted 15 alternate suppliers of polyester yarn worldwide. All were interested in selling her raw materials—except for use in products made and used in the United States. By itself, this is a powerful statement about the nature of our American product liability laws, and makes a powerful case for reform.

There's more at stake however, here than just protecting suppliers from liability. It's more than just making those raw materials available to the manufacturers of medical devices. What's at stake is the health of millions of Americans who depend on medical devices for their every day survival.

What's at stake is the health of children like Thomas Reilly from Houston, TX, who suffers from hydrocephalus, a condition in which fluid accumulates around the brain. A special shunt enables him to survive. But continued production of that shunt is in doubt because the raw materials' suppliers are concerned about the potential lawsuit costs. At our hearing last year, Thomas' father, Mark Reilly, pleaded for Congress to move forward quickly to assure that the supply of those shunts will continue.

What's at stake is the health of adults like Peggy Phillips of Falls

Church, VA, whose heart had twice stopped beating because of fibrillation. Today, she lives an active, normal life because she has an implanted automatic defibrillator. Again, critical components of the defibrillator may no longer be available because of potential product liability costs. Ms. Phillips urges Congress to move swiftly to enact legislation protecting raw materials and component part suppliers from product liability.

The scope of this problem affects young and old alike. Take a pacemaker. Pacemakers are installed in patients whose hearts no longer generate enough of an electrical pulse to get the heart to beat. To keep the heart beating, a pacemaker is connected to the heart with wires. These wires have silicone rubber insulation. Unfortunately, the suppliers of the rubber have begun to withdraw from the market. With this pacemaker, thousands of Americans can live productive and healthy lives for decades.

Take another example, a heart valve. Around the edge of a heart valve is a sleeve of polyester fabric. This fabric is what the surgeon sews through when he or she installs this valve. Without that sleeve, it would be difficult, if not impossible, to install the valve. Without that valve, patients die prematurely.

In short, this developing product liability crisis will have widespread and serious effects. We cannot simply allow the over 7 million people who own their health to medical devices to become casualties of an outmoded legal liability system. Because product liability litigation costs make the economics of supplying raw materials to the implantable medical device makers very unfavorable, it is imperative that we act now. We cannot rationally expect raw materials suppliers to continue to serve the medical device market out of the goodness of their hearts, notwithstanding the liability related costs. We need to reform our product liability laws, to give raw material suppliers some assurance that unless there is real evidence that they were responsible for putting a defective device on the market, they cannot be sued simply in the hope that there deep pockets will fund legal settlements.

I have long believed that liability reform could be both proconsumer and probusiness. I believe the testimony we heard on this subject last year proved this once again. When fear of liability suits and litigation costs drives valuable, lifesaving products off the market because their makers cannot get raw materials, consumers are the ones to suffer.

When companies divert money from developing new lifesaving products to replace old sources of raw materials supply, consumers are again the ones to suffer. When one company must spend millions just to defend itself in lawsuits over a product it did not even design or make—for which it simply provided a raw material worth 5

cents—it is the consumer that suffers the most. Our hearing dramatically illustrated that efforts to increase compensation for the injured can sometimes come at an unacceptably high cost.

Based on the testimony we heard, I, along with my distinguished colleague from Arizona, are committed to forging a solution to remedy this immediate threat to our national public health. Today, we are introducing the Biomaterials Access Assurance Act of 1995, which will establish clear national rules to govern suits against suppliers of raw materials and component parts for permanently implantable medical devices. Under this bill, a supplier of raw materials or component parts can only be sued if the materials they supplied do not meet contractual specifications, or can properly be classified as a manufacturer or seller of the whole product. They cannot, however, be sued for deficiencies in the design of the final device, the testing of that device, or for inadequate warnings with respect to that device.

I believe that enactment of this bill would help ensure that America's patients continue to have access to the best lifesaving medical devices in the world. We must act now, however. This piece of legislation is preventative medicine at its best and is just the cure the patients need.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biomaterials Access Assurance Act of 1995".

SEC. 2. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that

the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequacy—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action,

or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR.—With respect to an action brought on behalf or through a minor, such term includes the parent or guardian of the minor.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section

201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(8) **QUALIFIED SPECIALIST.**—With respect to an action, the term “qualified specialist” means a person who is qualified by knowledge, skill, experience, training, or education in the specialty area that is the subject of the action.

(9) **RAW MATERIAL.**—The term “raw material” means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(10) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(11) **SELLER.**—

(A) **IN GENERAL.**—The term “seller” means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) **EXCLUSIONS.**—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 4. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) **GENERAL REQUIREMENTS.**—

(1) **IN GENERAL.**—In any civil action covered by this Act, a biomaterials supplier may raise any defense set forth in section 5.

(2) **PROCEDURES.**—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this Act is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 6.

(b) **APPLICABILITY.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), notwithstanding any other provision of law, this Act applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) **EXCLUSION.**—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this Act; and

(B) shall be governed by applicable commercial or contract law.

(c) **SCOPE OF PREEMPTION.**—

(1) **IN GENERAL.**—This Act supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this Act establishes a rule of law applicable to the recovery of such damages.

(2) **APPLICABILITY OF OTHER LAWS.**—Any issue that arises under this Act and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) **STATUTORY CONSTRUCTION.**—Nothing in this Act may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

erwise would not exist under applicable Federal or State law.

SEC. 5. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) **IN GENERAL.**—

(1) **EXCLUSION FROM LIABILITY.**—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) **LIABILITY.**—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) **LIABILITY AS MANUFACTURER.**—

(1) **IN GENERAL.**—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) **GROUND FOR LIABILITY.**—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section; or

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so.

(3) **ADMINISTRATIVE PROCEDURES.**—

(A) **IN GENERAL.**—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) **DOCKETING AND FINAL DECISION.**—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) **APPLICABILITY OF STATUTE OF LIMITATIONS.**—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) **LIABILITY AS SELLER.**—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if the biomaterials supplier—

(1) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(A) the manufacture of the implant; and

(B) the entrance of the implant in the stream of commerce; and

(2) subsequently resold the implant.

(d) **LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.**—A biomaterials supplier may, to the extent re-

quired and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii)(I) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j); and

(II) have received clearance from the Secretary.

if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 6. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) **MOTION TO DISMISS.**—In any action that is subject to this Act, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 5(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 5(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 5(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) **PROCEDURAL REQUIREMENTS.**—

(1) **IN GENERAL.**—The procedural requirements described in paragraphs (2) and (3) shall apply to any action by a claimant against a biomaterials supplier that is subject to this Act.

(2) **MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.**—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(A) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(B) an action against the manufacturer is barred by applicable law.

(3) AFFIDAVIT.—At the time the claimant brings an action against a biomaterials supplier the claimant shall be required to submit an affidavit that—

(A) declares that the claimant has consulted and reviewed the facts of the action with a qualified specialist, whose qualifications the claimant shall disclose;

(B) includes a written determination by a qualified specialist that the raw materials or component parts actually used in the manufacture of the implant of the claimant were raw materials or component parts described in section 5(d)(1), together with a statement of the basis for such a determination;

(C) includes a written determination by a qualified specialist that, after a review of the medical record and other relevant material, the raw material or component part supplied by the biomaterials supplier and actually used in the manufacture of the implant was a cause of the harm alleged by claimant, together with a statement of the basis for the determination; and

(D) states that, on the basis of review and consultation of the qualified specialist, the claimant (or the attorney of the claimant) has concluded that there is a reasonable and meritorious cause for the filing of the action against the biomaterials supplier.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 5(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 5(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (3) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 5 on the grounds that the defendant is not a manufacturer subject to such subsection 5(b) or seller subject to subsection 5(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 5(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 5(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 5(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists.

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 5(d) or the failure to establish the applicable elements of section 5(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 5(b) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this Act shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other de-

fendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

SEC. 7. APPLICABILITY.

This Act shall apply to all civil actions covered under this Act that are commenced on or after the date of enactment of this Act, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this Act.●

By Mr. WARNER (for himself and Mr. ROBB):

S. 305. A bill to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

THE SHENANDOAH VALLEY NATIONAL BATTLEFIELDS PARTNERSHIP ACT OF 1995

● Mr. WARNER. Mr. President, I am pleased to introduce legislation, along with Senator ROBB, to establish a new national park in the Shenandoah Valley of Virginia.

This legislation mirrors my legislation from last year, S. 1033, which passed the Senate by unanimous consent.

While our purpose is conventional—the preservation of treasured historic resources, our approach is innovative—a cooperative relationship between the National Park Service and private landowners that combines a mix of Federal ownership through donation of lands and protection of private property rights.

This new park will preserve and commemorate the strategic significance of the Civil War battles in the valley which occurred from 1862 to 1864. The park will consist of 1,864 acres at 10 battlefields in the valley at McDowell, Cross Keys, Port Republic, Second Winchester, New Market, Fishers Hill, Toms Brook, Cedar Creek, Kernstown, and Opequon.

The Shenandoah Valley National Battlefields Partnership Act is the product of an indepth study by the National Park Service which was authorized by the Congress in 1990. The Park Service conducted field surveys of 15 battlefields in the valley and concluded in their analysis that “because of their size and unprotected status, the battlefields of the Shenandoah Valley were its most important, most neglected, and most threatened resource.”

Mr. President, throughout my service in this body, I have been actively involved in the preservation of several Civil War battlefields in Virginia. One of my first legislative initiatives was

to sponsor legislation in 1980 to expand the boundaries of the Manassas National Battlefield Park by 1,522 acres. While some battlefield preservation efforts in Virginia have been accomplished by a consensus of support from local governments, the preservation community and the Federal Government, other efforts have involved a great deal of acrimony.

I am pleased that the Senate will again give approval to my legislation which represents a significant investment of time and commitment by preservation groups, local governments, and many dedicated residents in the valley.

Each party interested in fostering the protection of the Shenandoah Valley battlefields has worked diligently since the Park Service study began in 1990 to craft a consensus proposal that recognizes the limits on the Federal Government's resources to acquire substantial acreage in the valley and balances the needs of property owners and local governments to provide for their economic future.

Mr. President, during the past 2 years that we have worked on gaining national recognition for the Shenandoah Valley battlefields, I have remained committed to this effort because of the steadfast support and leadership by the many local citizens, property owners, preservationists, and local officials in the valley. They have given generously of their personal time to organize local meetings, testify before Congress, and work with the Park Service to advance our proposal.

I am especially grateful to Will Greene, formerly with the Association for the Preservation of Civil War Sites; Jay Monahan and Garland Hudgings, with the Stonewall Brigade Foundation; and many civic leaders such as June Wilmot, with the Winchester-Frederick County Economic Development Commission; Betsy Helm, with Historic Winchester Foundation; Robert Watkins, with the Frederick County Planning Commission, and Barbara Moore, with the Society of Port Republic Preservationists.

Mr. President, these are but a few of the many persons who have assumed the tremendous responsibility over the years to ensure that these historic lands remain undisturbed for future generations. It is no exaggeration to say that this legislation would not be possible today without their firm resolve and passion to preserve these battlefields.

With the passage of this legislation, they will no longer be shouldering this effort alone, but will now have the Park Service as an important partner.

While authorizing limited acquisition of 10 battlefields in the valley, most of this land will be donated to the Park Service. The central feature of this provision is to foster and encourage an atmosphere of cooperation between the Federal Government, State and local governments, property owners, and preservation groups.

We have been fortunate that the valley's predominantly agricultural land uses have provided protection for these battlefields. Permanent preservation, however, is in serious jeopardy as the rural landscape of the valley declines. With the continued pace of growth in the northern valley and the loss of agricultural lands, now is the time for the Federal Government to become a full partner in the local and private efforts to ensure that these lands remain protected for all Americans to study and enjoy.

This bill embodies many of the preservation approaches examined in the "Study of Civil War Sites in the Shenandoah Valley of Virginia." I concur with the study's finding that " * * * no single alternative is best suited to these sites. A balance must be achieved between preservation, the Valley lifestyle, and economic development * * * ".

In keeping with these recommendations, I believe this bill provides the right balance for preserving these battlefields. With limited Federal ownership, and a commission comprised of local representatives and historians to recommend further additions for Federal stewardship as well as cooperative arrangements with local governments and private landowners, we are achieving the desired goal. It recognizes the rights and responsibilities of local governments to utilize their planning authorities to protect these areas. It gives the Federal Government needed authorities to provide technical assistance on options to protect these battlefields, to provide for visitor interpretation and understanding, and most importantly, to accept lands by donation or purchase only from willing sellers.

As the study proposes a mix of public funding and technical assistance and acquisition of battlefield areas, our legislation embodies these recommendations to foster a partnership between the Federal Government, local governments, landowners and private organizations.

Each will share the responsibility and will prosper from the benefits that a national park designation brings to neighboring communities.

Now is the time for the Federal Government to come forward and participate in the protection of these threatened resources.

Mr. President, there is no question about the historic value of these properties. They have a high degree of integrity and continue to tell an important story of the military strategy employed during the battles of Thomas J. "Stonewall" Jackson's valley campaign of 1862 and the battles comprising Union General Philip Sheridan's burning of the Shenandoah Valley in 1864.

Approximately one-third of the recorded events of the Civil War occurred in Virginia. Dyer's "Compendium of the War of the Rebellion" records 297 incidents of armed conflict in the Shenandoah Valley during the Civil War: 6 battles, 18 engagements, 21 ac-

tions, and 252 skirmishes. The Shenandoah Valley was the richest agricultural region in Virginia, providing provisions to the Confederate forces. In addition, the Confederates used the Valley as a natural corridor for invading or threatening invasion of the North, while the Union forces realized the importance of denying the valley's use to the Confederacy.

Mr. President, surely, these events deserve a permanent place in history, just as Manassas, Gettysburg, and Antietam.

One of the most brilliant and most studied military campaigns in history is Stonewall Jackson's valley campaign of 1862. During that campaign, Jackson's army of 17,000 men defeated three northern armies with a combined strength of 33,000 men in a single month, winning five battles: McDowell, Front Royal, Winchester, Cross Keys, and Port Republic. Most importantly, Jackson's valley campaign created a strategic diversion to draw strength from the Federal's advance on Richmond. It was General Lee who unleashed Jackson in the valley because he understood the importance of creating a diversion to keep Union troops from moving toward Richmond.

Mr. President, I would like to share with my colleagues a brief excerpt from the study which so eloquently describes the passion that continues in the valley today:

Few regions in the United States have experienced the horrors of systematic destruction, and the memories are still close to the surface for many longtime Valley residents. Family histories are filled with stories that relate to the hardship of that time. It took a generation to repair the savages of "The Burning" and another generation before life in the Valley returned to its pre-war condition. There can be found there today a fierce pride in ancestors who survived the war and who struggled to rebuild all that was lost.

The history of the Civil War in the Shenandoah Valley bears witness to the devastation and waste of warfare, but more importantly, it underscores the irrepressible human will to survive, to rebuild, to carry on. The historic events and the human players of the Valley—heroic and tragic alike—have contributed significantly to the texture of our American cultural heritage.

Mr. President, I am confident that these battlefields will make a very positive contribution to the Park Service preservation of this tragic chapter in our American history. These lands are important to our understanding of the events that occurred from 1862 to 1864 when the momentum and tide of the Confederacy's struggle turned and the Union forces began to take hold. ●

By Mr. DORGAN:

S. 306. A bill entitled the "Television Violence Reduction Through Parental Empowerment Act of 1995"; to the Committee on Commerce, Science, and Transportation.

TELEVISION LEGISLATION

● Mr. DORGAN. Mr. President, today I am introducing legislation that would empower parents to deal with violence

on television. Specifically, the Television Violence Reductions Through Parental Empowerment Act would require that television sets include a technical device parents could use to block out television programs that are, in their judgment, too violent for their children.

This legislation is identical to legislation Representative ED MARKEY introduced in the House the previous Congress. I introduced this legislation in the Senate last year as well. I am introducing this bill again because I believe that we ought to consider this approach, commonly known as the V-chip bill, in the current debate over how we should address the problem of violence on television. In my judgment, the V-chip idea is an important part of a legislative response to the problem of violence on television.

I understand that the Electronics Industry Association is moving forward on developing an industry standard that will incorporate the ability to block programs based on a rating for violence into new television sets. I endorse and applaud these efforts. This private sector initiative is a very positive development. However, it remains to be seen as to whether or not such efforts will accomplish the goal of empowering parents to control television programs coming into their homes. I intend to work with the industry in this effort and I want to encourage the future of their efforts. Nevertheless, until such a standard is in place and out common goals are accomplished, I still believe that it is necessary to keep this legislation on the table.

There was a great deal of debate in the 103d Congress about television violence. Unfortunately, that debate took place, to a large extent, in congressional committees and no legislation was advanced. I think the broadcast and cable industries, along with the EIA, have all made significant efforts to address public and congressional concern with TV violence. However, I still believe that some modest legislative approach need to be considered.

I encourage my colleagues to support this legislation and in general work with me to advance a solution to television violence that enables the public and parents in particular to send a direct message to the industry. Parents and the public, and not the Government nor the industry, should have the ultimate say in what should and should not be on television. The V-chip bill is a means to give consumers another tool.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 306

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Television Violence Reduction Through Parental Empowerment Act of 1995".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) To the fullest extent possible, parents should be empowered with the technology to choose to block the display on their televisions of programs they consider too violent for their children.

(2) Violence now touches the lives of American children more than adults. From 1982 through 1984, teenagers were the victims of 1,800,000 violent crimes, twice the annual rate of the adult population over age 20. According to the American Academy of Pediatrics, one of every 8 deaths among children age 10-14 years old in 1990 was caused by a shooting. Among teenagers and young adults, that figure rose to one of every four deaths.

(3) Children watch an extensive amount of television. It is estimated that a child watches approximately 22,000 hours of television before finishing high school, almost twice the amount of time spent in the classroom.

(4) The amount of violence on television has reached epidemic levels. The American Psychological Association estimates that the average child witnesses 8,000 murders and 100,000 acts of violence before finishing elementary school.

(5) Three Surgeon Generals, the National Institute of Mental health, the Centers for Disease Control, the American Medical Association, the American Academy of Pediatrics, and the American Psychological Association have concurred for nearly 20 years as to the deleterious effects of television violence on children.

(6) Despite periodic television industry efforts to reduce the amount of television violence, reductions in the level of televised violence have never been long lasting.

(7) Parents who are working are unable to constantly monitor the television viewing habits of their children. Advanced television technologies such as channel compression and digitization will allow the expansion of channel capacity to levels even more unmanageable for parents who want to protect their children from televised violence.

(8) The major broadcast networks and a large number of cable channels have agreed to place parental advisories on programs they consider to be too violent for children. These parental advisories are of limited use to parents if they are not watching television with their children.

(9) The technology currently exists to equip television sets at a nominal cost to permit parents to block the display of television programs they consider too violent for children. However, this technology will only be effective (A) if all television programmers send any adopted rating or warning system electronically with the program signal, and (B) parents are able to block the display not only of individual programs but to block out automatically and simultaneously all programs with such rating.

(10) Congress calls upon the broadcast networks, independent television stations, cable programmers, and satellite programmers to protect the parental right to guide the television viewing habits of children by sending any adopted rating or warning system electronically with the program signal.

SEC. 3. EQUIP TELEVISIONS TO BLOCK PROGRAMS.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(v) Require that (1) apparatus designed to receive television signals be equipped with

circuitry designed to enable viewers to block the display of channels, programs, and time slots; and (2) such apparatus enable viewers to block display of all programs with a common rating. The requirements of this subsection shall apply when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size, measured diagonally."

SEC. 4. SHIPPING OR IMPORTING.

(A) REGULATIONS.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new section:

"(c) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(v) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section. Such rules shall provide performance standards for such blocking technology. Such rules shall further require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and blocking specifications established by the Commission. As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers. This subsection shall not apply to carriers transporting such apparatus without trading it."

(b) CONFORMING AMENDMENT.—Section 330(d) of such Act, as redesignated by this Act, is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and section 303(s), 303(u), and 303(v)".

SEC. 5. EFFECTIVE DATE.

The amendments made by sections 3 and 4 of this Act shall take effect one year after enactment of this Act.

SEC. 6. RULES.

The Federal Communications Commission, shall promulgate rules to implement the amendments made by this Act within 180 days after the date of its enactment. •

By Mr. LEAHY:

S. 307. A bill to require the Secretary of the Treasury to design and issue new counterfeit-resistant \$100 currency; to the Committee on Banking, Housing, and Urban Affairs.

THE COUNTERFEITING AND MONEY LAUNDERING DETERRENCE ACT OF 1995

Mr. LEAHY. Mr. President, I rise today to introduce the Counterfeiting and Money Laundering Deterrence Act of 1995.

Counterfeit money is the cheap way for terrorists to fund their activities around the world. The opening of the trial in New York of the accused terrorists, who allegedly threatened to blow up the United Nations, FBI Headquarters, and other sites, serves as a reminder that our Nation is not immune to such activities. This bill outlines steps we should take to combat both the counterfeiting of our currency and the laundering of the estimated \$300 billion per year of ill-gotten profits from drugs, arms smuggling, and other crimes.

This legislation, which Senator KERRY and I also introduced in the last Congress, would accomplish two objectives: First, it would bring our \$100 currency up to date and stop letting counterfeiters have a free meal ticket. Second, it would put the squeeze on drug trafficking organizations that have to launder vast sums of money to operate—making their costs of doing business significantly higher and hopefully turning piles of their money into worthless paper.

COUNTERFEITING DETERRENCE

The currency of this country faces a serious challenge from new technologies that enable counterfeiters to turn out excellent reproductions. According to the Secret Service, overseas counterfeiting of U.S. currency has increased dramatically. For example, from 1992 to 1993, counterfeit currency detected abroad increased 300 percent.

A number of analysts believe the threat to the U.S. currency is urgent. News reports say that intelligence experts in the United States and Israel are aware of a highly skilled group of counterfeiters operating out of Lebanon's Bekaa Valley. These counterfeiters, controlled by Syria and Iran, have turned out as much as \$1 billion of extremely high-quality reproductions of the United States \$100 bill.

We must be very concerned with what nations like Iran or Syria can do with \$1 billion in bogus United States currency so convincing that it can be passed onto the international market. Would these poor countries use this money to purchase sophisticated weaponry that challenges the security of the region or of this country? Would they use this currency in an effort to destabilize U.S. currency? Would they use it to fund smaller scale but still serious terrorist activities throughout the world? No one knows.

The opening of the Russian Republics and the Eastern Bloc has also resulted in increased counterfeiting activity. Because the situation is changing in this part of the world so fast, it is difficult to determine the amount of counterfeiting that occurs there. According to the chief of the Russian Interior Ministry's Department of Economic Crimes, the amount of counterfeit United States currency confiscated by Russian authorities increased 10 times from 1992 to 1993. With organized crime increasingly taking hold in the Republics, counterfeiting has become a national cottage industry according to Moscow news reports. Because of mounting inflation of the ruble, foreign currency such as the U.S. \$100 bill has a special place in that country's economic system, making it particularly attractive to counterfeiting.

What makes this situation all the more pressing is that the U.S. currency is among the most easy to counterfeit in the world. Although recently updated with a deterrent polyester strip, our bills do not use the watermarks or sophisticated dying and engraving techniques that other countries employ

to make it difficult to reproduce their bills convincingly. Nor do we change the appearance of our currency from time-to-time to discourage counterfeiters as other countries do.

To address this threat, this legislation requires the Secretary of the Treasury to design a new \$100 bill that incorporates some of the counterfeit-resistant features that other countries have adopted. The Treasury Department has already done substantial design work on a new \$100 bill, and it is the intention of this legislation to permit the Secretary to draw on that work in meeting the requirements of the act.

MONEY LAUNDERING DETERRENCE

But aside from bringing our currency into modern times to address state-of-the-art counterfeiting technology, this legislation is designed to put a full court press on money laundering. We need to realize that the international drug industry is a multibillion-dollar, highly sophisticated enterprise. A single undercover operation in which Federal agents operated a fake bank to launder money recently netted \$52 million in cash and assets. If we are really going to stop international drug trafficking and terrorist activities, we need to focus more on stopping the ease with which those organizations move their money internationally to finance their crimes.

My bill strikes two blows against money launderers. First, the bill requires all existing \$100 denomination U.S. currency to be exchanged within a 6-month period. This would make drug traffickers who hoard vast amounts of hard currency hard-pressed to convert their existing cash into the new money. If they cannot convert the money within the specified time frame, their funds become worthless under the bill. Even if drug organizations could somehow convert their money within the exchange period, the likelihood of their being traced by currency transaction reporting increases substantially, as does the cost of laundering their ill-gotten gains. Of course, there is an exception for hardship cases in the bill where money has not been derived from unlawful activity.

Second, the bill establishes two new versions of the \$100 bill: One for use at home and one for use abroad. The only business that relies on exporting large amounts of hard currency is drug trafficking. This provision would make money smuggled out of the United States worthless, turning the tables on drug traffickers who covertly move money from the streets of this country to foreign banks who launder it without reporting illicit transactions to the Treasury.

A U.S. citizen traveling abroad who wished to bring \$100 currency with him would hardly be inconvenienced by this measure: A quick stop at a U.S. bank to convert their greenbacks into differently colored foreign-use bills would be all that is necessary—just like purchasing travelers' checks. The only

ones inconvenienced would be drug traffickers who would hate to exchange their greenbacks for foreign-use currency at a U.S. bank because of currency transaction reporting requirements.

To the extent drug traffickers cannot exchange their \$100 bills within the timeframe and they become worthless, this is a debt against the U.S. Treasury that can be written off to finance the costs of this legislation, and further, to pay off other obligations of the U.S. Treasury.

LET'S BEGIN A DISCUSSION ON THESE ISSUES

I know there will be opposition from some quarters to this proposal. The Federal Reserve likes the current situation and believes the good-old, easily copied \$100 bill provides welcome stability to the international monetary system. The banks feel burdened by the currency transaction reporting requirements. Adding new counterfeit-resistant features to bills is not costless. The Drug Enforcement Administration supports the concept but some there would prefer to go further and establish domestic and foreign use versions of all our currency.

Let us begin a serious discussion and debate on the steps we should take to address high-technology counterfeiting and money laundering. If this proposal is not the best way to go, then let's work to fashion a measure that will take strong steps against these threats. I am not comfortable with the current situation: We face the threat of potentially billions of passable counterfeit U.S. dollars going into the hands of terrorists. We must do more to cripple the big business of drug trafficking. Continuing to put our collective heads in the sand will not suffice. I encourage my colleagues and the relevant agencies and others with expertise in these areas to consider and take the steps necessary to address these important issues.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE COUNTERFEITING AND MONEY LAUNDERING DETERRENCE ACT OF 1995

Section 1. The short title of the bill is the "Counterfeiting and Money Laundering Deterrence Act of 1995."

Section 2. Findings and Purposes. Congressional findings are summarized and the purposes of the bill to combat counterfeiting and money laundering are described.

Section 3. Counterfeit-Resistant \$100 Denomination Currency.

The bill amends Title 31, United States Code, with new section 5123 to require the Secretary of the Treasury, in consultation with the Attorney General and the Administrator of the Drug Enforcement Administration, to design and designate new counterfeit-resistant \$100 bills for domestic and foreign use within 6 months of enactment.

The new bills must have counterfeit-deterrence features such as watermarks, multi-colored dyes, holograms, sophisticated engraving techniques etc.

The domestic use bills would be legal tender only in the U.S.; the foreign use bills would be legal tender abroad only. The two types of money could be exchanged at banks subject to U.S. currency transaction reporting requirements only. The domestic use bills have distinctly different coloring from the foreign use bills. This means money smuggled out of the country to be laundered at offshore banks that do not engage in currency transaction reporting would be worthless.

A 6-month currency exchange period would begin one year from the date of enactment. Old \$100 bills must be exchanged for new domestic or foreign use \$100 bills within this 6-month period, or they become worthless. The bill includes a process for extending the exchange period for hardship cases.

The currency exchange must occur at banks regulated by U.S. currency transaction reporting and anti-money laundering laws or at foreign banks that the Secretary of the Treasury finds by treaty or agreement abide by currency transaction reporting laws.

The Act would be financed by using credits obtained from extinguishing the Treasury's liability for \$100 bills not exchanged within the exchange period. Additional credits so generated would be returned to the general fund.

Section 4. Notice of Currency Exchange Period. The Secretary must begin notifying foreign and domestic governments and financial institutions of the upcoming exchange period within 6 months of enactment.

By Mr. SIMPSON (for himself, Mr. ROCKEFELLER, Mr. THURMOND, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. CRAIG, Mr. GRAHAM, and Mr. AKAKA):

S.J. Res. 26. A joint resolution designating April 9, 1995, and April 9, 1996, as "National Former Prisoner of War Recognition Day"; to the Committee on the Judiciary.

THE NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

• Mr. SIMPSON. Mr. President, I am pleased to join with my good friend and predecessor as chairman of the Committee on Veterans Affairs, Senator ROCKEFELLER, in introducing a Joint resolution which would recognize the service and dedication of America's former prisoners of war [POW's]. The Joint resolution would designate April 9, 1995, and April 9, 1996, as "National Former Prisoner of War Recognition day." April 9 is the anniversary of the fall of Bataan in 1942. On that day more Americans became POW's than any other day in our history.

Every American who dons the uniform of our country makes a unique commitment of service and duty to our country and to our fellow citizens. Many factors, some as random as fate itself, determine how that commitment will be realized. For some, military service may be little more than an office job here in the United States. For others, military service can combine bitter privation with the agony of combat. Perhaps no American veterans have been called upon to honor their commitment to our country under circumstances more difficult than those endured by our former POW's.

Former prisoners of war have seen combat. By definition they were close enough to the enemy to be captured; frequently after being wounded, shot down, or sunk by enemy action. But for them, the war didn't end when they were taken by the enemy, it was just beginning. At the worst, their experience was one of malnutrition, torture, and nonexistent medical care, combined with the burden of watching comrades die as fellow slave laborers while working under conditions that would make the worst villain of a Dickens novel look like a philanthropist.

Even under the best possible conditions, the POW experience places American service members in the position of being dependent upon our nation's enemies for every scrap of food, every bandage, every human need. In such circumstances, the reward for treason, or even cooperation, is high. The penalty for resistance and loyalty is immediate, frequently painful and sometimes fatal. This resolution recognizes the sacrifice and loyalty of the POW's who maintained their commitment of service to our country. In so doing, it helps fulfill the duty we have to former POW's. A duty derived from the faithful discharge of their duty to us.

Mr. President, in this century 142,257 American servicemen have become POW's. For over 17,000 of them, the experience was fatal. They died while in the hands of our enemies. Of the 125,202 who returned to our shores, only about 62,000 remain alive today.

This Joint resolution commemorates the service of former POW's who sustained their commitment to our country under circumstances that few of us can imagine, and none would willingly endure. I ask this body to honor the memory of those who have already died; I urge the Senate to express its gratitude to those still alive; and I call upon my colleagues to join with Senator ROCKEFELLER, members of the committee on Veterans' Affairs, and myself in sponsoring this Joint resolution. •

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. BREAU, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 141

At the request of Mrs. KASSEBAUM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 141, a bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and re-

porting requirements, and for other purposes.

S. 210

At the request of Mr. THOMAS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 210, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare program of emergency care and related services furnished by rural emergency access care hospitals.

S. 227

At the request of Mr. HATCH, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 227, a bill to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes.

S. 233

At the request of Mr. MCCAIN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 233, a bill to provide for the termination of reporting requirements of certain executive reports submitted to the Congress, and for other purposes.

S. 245

At the request of Mr. COHEN, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 245, a bill to provide for enhanced penalties for health care fraud, and for other purposes.

S. 262

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska [Mr. KERREY], the Senator from Utah [Mr. HATCH], and the Senator from Louisiana [Mr. BREAU] were added as cosponsors of S. 262, a bill to amend the Internal Revenue Code of 1986 to increase and make permanent the deduction for health insurance costs of self-employed individuals.

SENATE JOINT RESOLUTION 17

At the request of Mr. KEMPTHORNE, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of Senate Joint Resolution 17, a joint resolution naming the CVN-76 aircraft carrier as the U.S.S. Ronald Reagan.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, January 31, 1995 at 9:30 a.m. in open session to consider the nomination of Eleanor J. Hill to be inspector general of the Department of Defense.

Immediately following, the Committee will meet in closed session to receive an intelligence briefing on the smuggling of nuclear material and the role of international crime organizations; and on the proliferation of cruise and ballistic missiles.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, January 31, 1995, to conduct a hearing to look into the Mexican peso crisis and the administration's proposed loan guarantee package to Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Tuesday, January 31, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on the importance of savings in our economy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, January 31, 1995, at 10:00 a.m. to hold a hearing on consideration of ratification of the START II Treaty (Treaty Doc. 103-1).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT AND THE DISTRICT OF COLUMBIA

Mr. HATCH. Mr. President, I would like to ask unanimous consent that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Government Affairs, be granted authority to meet during the session of the Senate on Tuesday, January 31, 1995, at 2 p.m., to hold a hearing on oversight of the FDIC and the RTC's use of D'Oench Duhme.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. HATCH. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on January 31, 1995, at 10:00 a.m. on Department of Commerce Science and Technology Programs Oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE DEATH PENALTY—A PIVOTAL ISSUE

• Mr. SIMON. Mr. President, the issue of capital punishment is going to rear its head again in this session of Congress, and, once again, we will probably do what is politically expedient but is wrong.

I will continue to vote against capital punishment.

Recently, William H. Rentschler of my State, a member of the executive committee of the National Council on Crime and Delinquency, had an op-ed piece in the Chicago Tribune on the question of capital punishment. It contains so much common sense that I ask to insert it into the RECORD at this point.

The article follows:

[From the Chicago Tribune, Nov. 29, 1994]

THE DEATH PENALTY—A PIVOTAL ISSUE

(By William H. Rentschler)

Autumn of 1994 was "the killing season."

The ancient art of state-sanctioned killing clearly was a dominant issue, largely ignored in most post-election analyses of the Nov. 8 balloting.

The death penalty probably was as decisive a factor in the Republican sweep as the call for less government intrusion, even though the two are philosophical opposites.

Virtually every major winner, in upsetting incumbents, promised, in effect, to kill more human beings for an ever wider assortment of crimes, and to kill them dead and quicker.

Today, an overwhelming percentage of Americans tell pollsters they favor capital punishment, which seems to have become nearly as popular as tax cuts, Sunday afternoon football and strawberry yogurt. Which, of course, is why candidates seized on the issue with such self-righteous, drum-beating fervor.

If indeed all those elected keep their promises to enforce the death penalty more vigorously and broadly, this nation, in the final years of the 20th Century, will be witness to the greatest killing spree on American soil since the Civil War.

Never mind that:

There is no valid evidence capital punishment deters homicides and other violent crimes. Quite the contrary, homicides typically increase in the proximity of where an execution is carried out.

In our society, where the criminal justice system is erratic and uncertain, we inevitably will continue to execute some innocents.

A grossly disproportionate percentage of those who die at the hands of the state or wait their fate on death row are poor, illiterate, African-American or Hispanic. The homicide rate is highest in those states where executions are most frequent. Texas is the prime example. The death penalty no longer exists in any Western nation except the United States.

The public is angry and uptight. People are terrified and intolerant of escalating crime. Many want to rid society permanently of the slaving brutes they perceive as perpetrators of violence. A sizable majority of citizens would give the state virtual carte blanche to exterminate these beasts.

But wait. The "slaving brute" image embraces only a fraction of those who murder, maim and commit hideous, heinous crimes. Chicago Police Commissioner Matt Rodriguez states that homicides are committed in great numbers by family members, including parents and children, friends, neighbors, and business associates, than by prowling, predatory strangers. And the increasing numbers of random murders by violent, out-of-control youths, especially gang members, occur mainly in their own urban neighborhoods, according to Rodriguez.

Slight, bespectacled Susan Smith, the small-town South Carolina mother who rolled her two tiny sons to a watery grave in the family car, hardly fits the bestial profile

society embraces so readily. Yet her apparent crime was monstrous and unfathomable.

Many, I believe, wish somehow the murderer would have been the black male of her fictional alibi. Then the answer would have been neat and simple; it would have fed inherent prejudice. That the killer, by her own confession, turned out to be the pathetically confused and conscienceless young (white) mother, tortured by the demons of a failed marriage, mounting bills and doomed romance, is much more complicated and challenging to our emotions, attitudes and pat, built-in assumptions.

The death penalty is so widely accepted largely because it provides a measure of seeming certainty to a society greatly frustrated by its inability to solve its most vexatious problems. But it is a simplistic answer, akin to the primitive law of the jungle. It is evidence of a society unwilling and incapable of coming to grips rationally with hard challenges.

Capital punishment makes a mockery of such noble legal canons as equal justice under law and the bedrock right of all to simple fairness.

No matter how atrocious Smith's crime, precedent tells us she almost certainly will not be executed; yet the make-believe black man of her grotesque fairy tale surely would have been found guilty and put to death if her charade had been accepted.

Los Angeles prosecutor Gil Garcetti already has announced O.J. Simpson, a rich celebrity and one-time role model, will not be executed if convicted of two murders by a jury. Nor will any murderer of wealth, fame and community standing. This confirms an old Russian proverb: "No one is hanged who has money in his pocket."

The death penalty is reserved exclusively for society's little people, its powerless, its rabble, its dregs. This alone makes capital punishment wrong in a just society.

Since we really execute very few, since the death penalty will never be a prime factor in curbing violent crime, since the nation is faced with many other nagging concerns begging for solutions, it is hardly unreasonable to say that those candidates who collectively spent countless hours and millions of TV dollars trumpeting their passionate support for capital punishment were behaving irresponsibly and short-changing voters. •

ORDERS FOR WEDNESDAY, FEBRUARY 1, 1995

Mr. HATCH. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Wednesday, February 1, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for not more than 5 minutes, each with the exception of the following Senators: Senator GRAHAM, of Florida, 20 minutes; Senator HARKIN, 20 minutes; Senator BRADLEY, 15 minutes; Senator BENNETT, 15 minutes; Senator MURKOWSKI, 15 minutes; Senator DORGAN, 10 minutes; Senator GRAMS, 10 minutes.

I further ask that at 11:30 a.m. the Senate resume consideration of House Joint Resolution 1, the constitutional

amendment calling for a balanced budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M.
TOMORROW

Mr. HATCH. If there be no further business to come before the Senate, and no other Senator is seeking recognition, I ask unanimous consent that

the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 6:03 p.m., recessed until Wednesday, February 1, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 31, 1995:

THE JUDICIARY

JAMES L. DENNIS, OF LOUISIANA, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE CHARLES CLARK, RETIRED.

NATIONAL COUNCIL ON DISABILITY

RAE E. UNZICKER, OF NORTH DAKOTA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1997, VICE MARY ANN MOBLEY-COLLINS, TERM EXPIRED.

HUGHEY WALKER, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1996, VICE ELLIS B. BODRON, TERM EXPIRED.

ELA YAZZIE-KING, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL OF DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1996, VICE LINDA ALLISON, TERM EXPIRED.